OFFICE OF THE MAYOR
SAN FRANCISCO

TREASURE ISLAND PROJECT
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TREASURE ISLAND
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WILLIE LEWIS BROWN, JR.

TREASURE ISLAND DEVELOPMENT AUTHORITY
AGENDA FOR REGULAR MEETING
WEDNESDAY, NOVEMBER 10, 1999 - 1 P.M.

Room 400, City Hall
1 Dr. Carlton Goodlett Place

Willie L. Brown, Jr., Mayor

DIRECTORS

John Elberling, Vice-Chairman
William Fazande
Susan Po-Rufino
Doug Wong
Gerald Green
Anne Halsted
James Morales

Annemarie Conroy
Executive Director
Treasure Island Development Authority

ORDER OF BUSINESS

1. Call to Order and Roll Call
2. Approval of Minutes
3. Communications
4. Ongoing Business by Directors and Introduction of New Business by members
5. Report of the Treasure Island Project Director Annemarie Conroy
   - Report on access to Treasure Island including public use last month
   - Status of environmental clean up
   - Update on 1999-2000 Treasure Island Project Office budget
   - Report on short-term leases
   - Report on San Francisco-Oakland Bay Bridge/Caltrans issues
   - Report on TIHDI
   - Legislation/hearings affecting Treasure Island
6. Public Comment
7. Resolution authorizing negotiations with convenience store operator (*Action item*)
8. Resolution authorizing the Executive Director to execute a contract for janitorial services for the period 11/10/99 through 10/1/2000 for an amount not to exceed $100,000 with Toolworks, a member organization of TIHDI *(Action item)*

9. Workshop on preliminary development concept for Treasure Island marina (continued)
10. Resolution approving sublease for San Francisco Sailing Center Foundation (*Action item)*
11. POSSIBLE CLOSED SESSION
    - Public Comment on all items relating to closed session
    - Vote on whether to hold closed session to confer with legal counsel. (San Francisco Administrative Section 67.11(b).
12. CLOSED SESSION

    CONFERENCE WITH REAL PROPERTY NEGOTIATOR

    Property: Treasure Island Naval Base
    Persons negotiating: Annemarie Conroy, Michael Cohen, Stephen Proud
    Under negotiation:
    Price___ Terms of payment __ Both x

13. Reconvene in open session:
    - Possible report on action taken in closed session. (Government Code section 54957.1 (a) (2) and San Francisco Administrative Code section 67.14 (b) (2).)
    - Vote to elect whether to disclose any or all discussions held in closed session (San Francisco Administrative Code section 67.14(a).)
14. Adjourn

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Treasure Island Development Authority
Minutes of October 20, 1999 Special Meeting

1. Call to Order: 1:05 p.m. in Room 416, City Hall

2. Roll Call: Present:
   John Elberling, Vice Chair
   William Fazande
   James Morales (1:15)
   Gerald Green (1:25)
   Doug Wong (left 2:30)
   Anne Halsted
   Susan Po-Rufino

3. Approval of Minutes:

   The minutes of both August 18, 1999 and September 8, 1999 were approved.

4. Communications

   The Commission Secretary reported there were none.

6. Executive Director's Report

- Report on access to Treasure Island including public use last month- Ms. Conroy reported on the success of the TIHDI picnic on October 9th, as well as the second annual Alzheimer's Society Memory Walk, the weekly Flea Market and Fleet Week activities
- Status of environmental clean up- Martha Walters reported that she is finishing an environmental binder for Treasure Island residents
- Report on ambulance service- Ms. Conroy reported that the ambulance stationed on TI has been staffed by the SFPD with two firefighters who have BLS (Basic Life Support) certificates. Chief Rich Shortall of the SFFD testified that next spring the SFFD hoped to bring on fully certificated paramedics. Mr. Fazande asked about the adequacy of the number of BLS certified staff and Chief Shortall responded that the key element is quick response rather than relying on waiting for help to come from the mainland.
- Report on no-cost EDC- Stephen Proud announced that the Department of Defense sponsored legislation enabling a no-cost economic development conveyance had been signed by the President. It is favorable to the Authority because it eliminates discussions about fair market value and that it contains provisions that for seven years proceeds from economic development can be retained on-island if they are reinvested in redevelopment or island infrastructure.

  Mr. Elberling asked if we have teamed-up with other closed bases in the Bay Area and Mr. Proud responded affirmatively. He added that Congresswoman Pelosi asked the Mayor if she could be helpful in the conveyance process.
- Report on status of reopening the museum- Ms. Conroy described the background of the Navy's agreement with San Francisco Airport with respect to the collection and described Mr. Mahoney's efforts with respect to obtaining estimates for needed seismic repairs, building system upgrades and ADA compliance. She also noted that the Project Office is considering including Building 1 in a possible upcoming RFP for a master developer.

- Report on short-term leases- Ms. Conroy reported that Island Creative Enterprises, an excellent lessee is leasing on a month-to-month basis Building 99, Rex Liu is leasing the photo booth at the front gate for $500 per month and the Academy of Art extended their one month lease for residential units in the 240 series until November 5th
- Report on San Francisco-Oakland Bay Bridge/Caltrans issues-Ms. Conroy stated that since she just returned from vacation that she will report more fully next month
- Report on TIHDI- Ms. Conroy reported that TIHDI projects were on-track.
- Report on legislation/hearings affecting Treasure Island-Ms. Conroy reported on the Board's Recreation and Parks hearing at which she testified that the Project Office is not in a financial position to fund restoration and maintenance of soccer and baseball fields which are in high demand. She is hopeful that with the help of consultants to the department that funds can be raised.

Mr. Elberling asked for a report on the October 6th Community meeting and Ms. Conroy responded that turnout was excellent and that the Project Office planned to convene such meeting monthly and invited all Authority members to attend. The next meeting will address Muni and other issues. Ms. Halsted added that she appreciated the experience to hear residents' sentiments.

Mr. Elberling asked if any events are planned to celebrate the millenium on TI and Ms. Conroy responded that she had been informed by the SFPD that no police are available for the weekend and consequently no events are planned.

Public Comment on Executive Director's Report:

Richard Kelly, President and Chair of the Treasure Island Docents stated that he came to the meeting to convey that 35 docents are ready and want to go back to work. They want to see the museum reopened and want to help. Ms. Conroy stated that the Project Office is looking at smaller buildings to house exhibits relating to the history of the island.

Carrie Dittman, TIHDI, thanked a long list of people for their help to TIHDI for the October 9th picnic.

Harlan VanWye, member of the RAB and owner of a boat in the Treasure Island marina, commented that the transition from former Harbormaster Marianne Conarroe to Almar's present harbormaster was excellent and complimented both parties.

7. Public Comment –There was none

8. Presentation by John Stewart Company on status of housing units on Treasure Island

Loren Sanborn, Vice President, John Stewart Company (JSC), stated that currently 208 housing units were occupied and that 10 more units would be occupied during the remaining part of October. Rehabilitation is on schedule with 40 to 50 new units available each month. Ms. Sanborn noted that JSC had exceeded TIHDI's hiring goals. She added that 109 units were occupied by San Francisco residents. She noted that some residents were outspoken with regard to future residents of TIHDI units and that the JSC had met with several of the people.

Ms. Sanborn noted that JSC had had 2000 applicants, had rejected 100 and had two appeals and both of those had been permitted to reside at TI. When askd about complaints, Ms. Sanborn responded that initially there were complaints about plumbing and that in terms of the application process, she had received a few complaints about the rigorous check for criminal records.

Mr. Morales inquired about a waiting list and Ms. Sanborn responded that there is no formal waiting list since the JSC can accommodate everyone who signs up. There is a small waiting list for 2 bedroom and view units.

Ms. Sanborn was asked to furnish the Authority with the number of City employees living in the units.

9. Presentation by Treasure Island Enterprises (TIE) of its development concept for Treasure Island marina

Development Director Stephen Proud stated that negotiations were proceeding with Treasure Island Enterprises (TIE) and that many meetings had occurred between TIE, Project Office staff, S.F. Planning Department and the EDC consultant team in an effort to integrate the marina plan into an overall strategy for development of Treasure Island.

Mr. Proud presented Dennis Henmi and Jeff Stahl of Kwan Henmi to present a conceptual plan for the marina.

Jeff Stahl presented a plan for the landside portion of the marina. The concept includes a 100' wide promenade (parallel to Clipper Cove) with a plaza at the end of Avenue D, lots of parking along the edge of the marina and at the eastern edge near future ferry terminal, a sailing school, two buildings of 10,000 and 11,000 square feet, a restaurant, snack bar and laundry. The plan does not include Building 180.

Dennis Henmi stated that the development in Clipper Cove is intended to open views along the promenade, and includes both a floating pier for large boats (up to 100') and a public access pier.

Mr. Elberling inquired about the process for reviewing and approving development. Mr. Proud responded that the plan presented is a conceptual plan which is the sixth or seventh iteration. It was brought by staff to the Authority to obtain Authority members' reactions to the concept, including the outer physical boundaries of the marina project.

Mr. Elberling stated that staff should return in November to provide the Authority with a structured workshop.

Ms. Po-Rufino asked about the timing with the masterplan and Mr. Proud responded that implementation depends on the conveyance of the islands from the Navy to the City, the completion of the EIS/EIR and the decision of the Authority as to a master developer.

Ms. Halsted stated she liked the simplicity of approach and asked where in the process are there opportunities for design review. Ms. Po-Rufiuno asked for a list of similar projects by the developer. Mr. Green asked about the proposed location of parking, an analysis of the need for the number of parking spaces and impacts of the parking on run-off into the Bay. Ms. Halsted asked that marina users be invited to the next meeting.

Mr. Elberling reiterated the requests of Authority members by stating that information on parking is needed as well as information about the design of the area adjacent to Building 1.

10. Resolution authorizing sole source negotiations with San Francisco Little League for use of Little League field on Treasure Island (*Action item*)

Mr. Proud stated that the Little League field is located on the east side of TI and was created especially for Little League games. The sponsors propose to renovate the field into playable shape and to maintain it. Mr. Proud added that current negotiations include offering San Francisco Little League preference as to times and that TIDA would also obtain time for various groups on the island.

Mr. Green asked about the cost to Little League and the term of the lease. Mr. Proud responded that the field would be offered at no cost and the term . Mr., Green asked if an analysis had been performed on when the Little League would recoup its costs and if lights been planned for the facility. In addition, Mr. Green asked how would islanders schedule use and the location of proposed parking.

Ms. Po- Rufino asked if the field could be used as a football field and Mr. Proud responded that it is small and designed as a baseball diamond. Mr. Morales asked about spectator involvement and its possible use for other types of events. Mr. Morales stated that a minimum time should be set aside for the field to be used by the public and island residents.

Ms. Halsted inquired if the proposed field replaced another in San Francisco and Mr. Proud responded that San Francisco Little League games are played in Marin County currently.

Mr. Jesse Tepper, Manager of San Francisco Little League, stated that he wanted to use the TI field as S.F. Little League's home field. He stated that Little League wanted maximum access and would want to use the field everyday. He stated that current parking available at the field is adequate.

Mr. Green stated that he wanted progress reports on the negotiations.
Ms. Halsted moved approval and Mr. Morales seconded. Approved, 6-0.

11. Resolution approving Cooperative Agreement with Navy *(Action item)*

Ms. Conroy stated that the grant from the Navy is declining from $4 million annually for the last two years to $2.5 million for the upcoming year. Ms. Conroy summarized the changes and reductions in portions of the grant stating that since the housing areas on TI has been leased, the Authority's portion of maintenance costs have been reduced. The Authority still pays for police and fire protection. Mr. Fazande asked if any of the work will be performed by contract and Mr. Mahoney responded that city departments perform such work.

Mr. Elberling asked if the budget is the same budget approved by the Authority in June and Ms. Conroy responded that it is and stated that there will be a presentation on the budget at the November meeting.

Ms. Halsted moved approval and Mr. Morales seconded. Approved, 6-0.

12. Resolution accepting marine-related personal property from U.S. Navy *(Action item)*
13. Resolution transferring nine former US Navy sailing vessels to Delancey Street Foundation for use with Life Learning Academy *(Action item)*

Authority members agreed to consider items 12 and 13 together. Ms. Marianne Conarroe stated that the equipment had been declared excess by the Navy and include barges, sailboats and marine-related materials. The barges have been a monetary resource to the Authority. The nine sailboats are in need of

repair and the Project Office recommends their transfer to the Delancey Street's Life Learning Academy so that students will be able to work on them for eventual use.

Authority members and Ms. Conroy praised Ms. Conarroe's work as the former harbormaster. Ms. Conarroe stated that other than the barges and sail boats, all other items are scrap and will be hauled away.

Kate Weinstein, Life Learning Academy, expressed interest in the sailboats for the Academy's students.

Ms. Po-Rufino inquired if the boats would receive free berthing and Ms. Conarroe responded that they would not and stated that the boats needed to be pulled out of the water and be repaired on land.

Ms. Halsted moved approval of item 12 and Mr. Green seconded. Approved, 6-0.
Ms. Po-Rufino moved approval of Item 13 and Ms. Halsted seconded. Approved, 6-0.

14. POSSIBLE CLOSED SESSION

- Public Comment on all items relating to closed session
- Vote on whether to hold closed session to confer with legal counsel. (San Francisco Administrative Section 67.11(b).
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15. CLOSED SESSION

The Authority met in closed session to discuss real estate negotiations.

Discussion and vote on whether to disclose action taken or discussions held in Closed Session.

Motion that the Treasure Island Development Authority elects at this time not to disclose its closed session deliberations. Passed unanimously.

16. Adjourn

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AGENDA ITEM
Treasure Island Development Authority
City and County of San Francisco

Subject: Resolution Authorizing Negotiations with Convenience Store Operator at Treasure Island

Agenda Item No. 7
Meeting of November 10, 1999

Contact/Phone: Annemarie Conroy, Executive Director
Stephen Proud, Director of Development
274-0660

SUMMARY OF PROPOSED ACTION:

This action provides authorization for the Executive Director to enter into negotiations with Susie S. Pak Company to lease space on treasure Island for the purpose of operating a convenience store.

BACKGROUND

As Treasure Island begins the transformation from a former military facility to a new San Francisco neighborhood and residents begin to populate the Island, it is important that amenities be developed to support the new population. In approving the John Stewart Company (JSCo) sublease for housing, the Authority recognized this need for amenities and included a provision that stated the Authority would use good faith efforts to establish commercial services on the Island including a grocery/convenience store.

Over the past several months, Authority staff has been working to establish a convenience store on the Island. Early efforts focused on working with TIHDI and its member organizations to provide the service, since the development of a convenience store was specifically identified as an economic development opportunity under the terms of the Homeless Assistance Agreement. However, despite our efforts, we were unable to find an operator and agree on business terms and TIHDI decided to decline the opportunity.

Under the terms of the JSCo sublease (Section 30.2), if neither the Authority nor TIHDI had established a convenience store on Treasure Island by March 31, 1999, the Authority is required to negotiate and use good faith efforts to enter into a sublease with JSCo or other entity acceptable to JSCO for the operation of convenience store on Treasure Island. Authority staff has been working with JSCo and as a result of our efforts, a convenience store operator has been identified. Staff has held several meeting with JSCo and the store operator and has reached tentative agreement on the terms and conditions for a sublease, with is attached to the resolution as Exhibit A.

The proposed convenience store will be a semi-permanent, mutli-sectional facility, such as a doublewide trailer, that will be approximately 7,400 square feet in size. The facility will be

located at the corner of 13th and H Streets, which is immediately adjacent to the housing area on Treasure Island proper (map attached as Exhibit B). Within the facility, the operator is proposing a "general store" operation that includes the sale of general grocery items, the sale and rental of videos, DVD's and Video Games, a drop location for off-premise laundry and dry cleaning, a deli counter/take-out food area, and other public amenities that may include an ATM and public fax machine.

The store operator is the Susie S. Pak Company. Ms. Pak is a seasoned manager with over twenty years of convenience store management experience acquired through the ownership and operation of 14 similar facilities in California.

The Authority staff have indicated to the Operator that they will use reasonable efforts to not sublease any other property on Treasure island for the purposes of opening a convenience store designed to service the resident base. However, the Authority has reserved the right to open a convenience store as part of any long-term development of the Island, which may include the marina, a hotel or other uses associated with redeveloping the Island. Proposed language for inclusion in the lease is presented in the Term Sheet attached to the resolution as Exhibit A.

Based on the provision set forth in the JSCo sublease, Staff is requesting the Authority authorize the Executive Director to negotiate a sublease with the proposed operator in conformance with the proposed term sheet.

[Convenience Store on Treasure Island]

AUTHORIZING THE EXECUTIVE DIRECTOR TO NEGOTIATE A SUBLEASE WITH THE SUSIE S. PAK COMPANY FOR A CONVENIENCE STORE ON TREASURE ISLAND

WHEREAS, On May 2, 1997, the Board of Supervisors (the "Board") passed Resolution No. 380-97, authorizing the Mayor's Treasure Island Project Office to establish a nonprofit public benefit corporation known as the Treasure Island Development Authority (the "Authority") to act as a single entity focused on the planning, redevelopment, reconstruction, rehabilitation, reuse and conversion of former Naval Station Treasure Island (the "Base") for the public interest, convenience, welfare and common benefit of the inhabitants of the City and County of San Francisco; and,

WHEREAS, Under the Treasure Island Conversion Act of 1997 (the "Act"), the California legislature (i) designated the Authority as a redevelopment agency under California redevelopment law with authority over the Base upon approval of the City's Board of Supervisors, and, (ii) with respect to those portions of the Base which are subject to the Tidelands Trust, vested in the Authority the authority to administer the public trust for commerce, navigation and fisheries as to such property; and,

WHEREAS, On March 17, 1999, the Authority, pursuant to resolutions adopted by the Authority and the City's Board of Supervisors, entered into a Sublease, Development, Marketing and Property Management Agreement (the "Agreement') with the John Stewart Company ("JSCO") to have up to 766 of the housing units on the Base rehabilitated, marketed and leased to residential tenants ("TI Tenants"); and,

WHEREAS, Under Section 30 of the Agreement, The Authority was required to use good faith efforts to work with TIHDI and the JSCO TO establish important commercial services on the Base for TI Tenants, including, a grocery/convenience store (a "Store"), and,

WHEREAS, Under the Agreement, if, by March 31, 1999, neither the Authority nor TIHDI had opened a Store on the Base, the Authority is required to use good faith efforts to enter into a separate sublease with JSCO or another entity reasonably acceptable to JSCO of suitable premises on the Base for a Store, at a location and on terms and conditions mutually acceptable to the Authority and JSCO; and,

WHEREAS, TIHDI elected not to pursue the Store as one of its economic development opportunities on the Base; and,

WHEREAS, after contacting numerous potential operators, JSCO has identified the Susie S. Pak Company ("Operator") as an acceptable operator for the Store; and

WHEREAS, JSCO, Operator and Authority staff have reached tentative agreement on the terms and conditions for a sublease to Operator as set forth in Exhibit A attached hereto (the "Term Sheet"), including regarding the location of the Store, the length of the sublease term, rent, and limitations on the costs of goods sold, Now therefore, be it

RESOLVED, That the Authority hereby authorizes the Executive Director to negotiate and separately present to the Authority for its approval a sublease with Operator in conformance with the Term Sheet.

CERTIFICATE OF SECRETARY

I hereby certify that I am the duly elected and acting Secretary of the Treasure Island Development Authority, a California nonprofit public benefit corporation, and that the above Resolution was duly adopted and approved by the Board of Directors of the Authority at a properly noticed meeting on November 10, 1999.

_____

John Elberling, Secretary

Exhibit A - Convenience Store Term Sheet

The following outlines the basic terms for the proposed sublease for a convenience store on Treasure Island.

Subtenant: The tenant for the facility is the Susie S. Pak Company.

Premises: The location of the proposed sublease is an approximately 10,000 square foot space at the intersection of 13th and H Streets. This location will be granted to the subtenant for a three-year term, at which time the Authority reserves the right, in its sole discretion, to relocate the subtenant to another suitable location for the remaining term of the sublease.

Master Lease: The property described above is still under the control of the U.S. Navy and has not been leased to the Treasure Island Project Office. Prior to the execution of a sublease between the Treasure Island Project Office and the Susie S. Pak Co., the property will need to be leased to the City via and amendment to an existing lease, or the execution of a new Master Lease.

Permitted Use: The for the proposed facility shall be limited to those set forth in the business plan presented to the Treasure Island Development Authority, excluding the restaurant component. On-site food service will be allowed, but that service shall be limited to a deli operation or take-out counter, with limited on-site seating.

Term: The term of the proposed sublease will run concurrent with the term of the John Stewart housing sublease, but shall not extend past March 1, 2006.

Rent: Monthly rent for the property identified above is the greater of $1,500 or 3% of annual gross sales, prorated on a monthly basis. The rent does not include the costs of utilities, nor the Common Area Maintenance (CAM) charge levied by the Navy, both of which must be paid by the subtenant. The subtenant is responsible for all costs associated with the property, including but not limited to taxes, insurance, and property maintenance costs including landscaping of parking areas.

Security Deposit: An amount equal to two months rent ($3,000) is required as a security deposit for the property.

Relocation Costs: In the event the subtenant is required to relocate from the original location, the Authority will provide rent abatement for the relocation costs up to $10,000. The abatement will be amortized over the remaining term of the lease.

Improvements: Based on the information presented in the business plan, the proposed building for the convenience store will be a temporary facility, such as a double wide mobile trailer. This facility must meet all building requirements set forth by the Department of Building Inspection, including seismic safety and accessibility requirements. The provision of utilities to the site and the associated cost will be the responsibility of the subtenant.

Exclusivity: The Authority can only grant rights for the convenience store to service the residential area. The following is proposed language to include in the sublease:

For the term of the Sublease, the Authority shall use commercially reasonable efforts to not lease, sublease or otherwise permit any property on the Base that is owned or controlled by the Authority (other than the Premises) for use as a convenience store, if the principal customer base for such convenience store would be intended to be the residential occupants of the Base. Notwithstanding the foregoing, nothing herein shall limit or otherwise restrict the Authority or any of its tenants, subtenants, transferees, successors or assigns to develop, own and /or operate a convenience store on the Base to the extent the principal customer base for such convenience store would not be intended to be the residential occupants of the Base, including if any such convenience store is included as part of a development project in furtherance of the Authority's long-term development plans for the Base, such as in connection with a hotel, marina, ball fields, themed attraction, or other cultural, recreational or entertainment use.

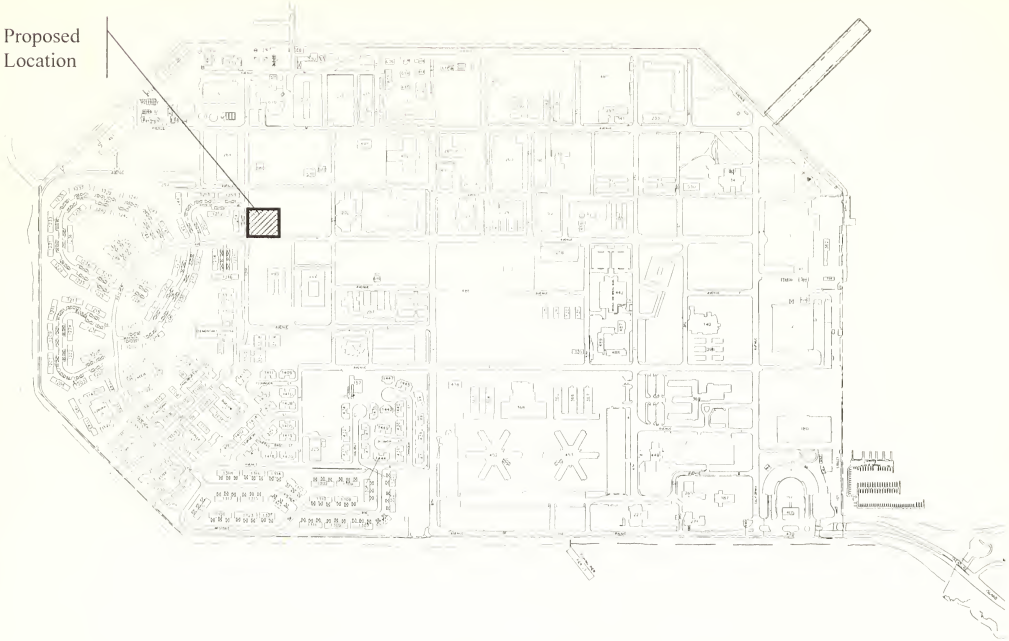
Pricing: The Authority is concerned about the pricing of products for the residents. For that reason, the Authority is proposing the inclusion of the following language:

Subtenant shall at all times during the term of the Sublease "Reasonable Rates" for merchandise sold at the Premises. For the purposes of the Sublease, Reasonable Rates shall mean rates which are comparable to the rates charged at convenience stores of comparable size and character in the City and County of San Francisco and which do not yield to Subtenant an average gross margin on all merchandise sold in excess of 35%.

Signage: The Authority and the Navy have the right to approve all signage related to the store. No permanent signage will be allowed at the front gate, but the Authority may allow temporary signage that is removable.

Employment: The subtenant will use best faith efforts to maintain an employment rate that includes 10% TIHDI program participants.

Exhibit B - Proposed Location for Convenience Store



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AGENDA ITEM
TREASURE ISLAND DEVELOPMENT AUTHORITY
City and County of San Francisco

Agenda Item No. 8 **Meeting of November 10, 1999**

Subject: Request for Approval of Contract with Toolworks, Inc. for janitorial and building maintenance services for the period November 1999 through October 2000 for an amount not to exceed $100,000

Contact/Phone: Annemarie Conroy, Executive Director
Robert Mahoney, Deputy Executive Director
274-0660

SUMMARY OF PROPOSED ACTION

Authorize execution of contract with Toolworks, a member organization of the Treasure Island Homeless Development Initiative, for janitorial and building maintenance services for the period November 1999 through October 2000 for an amount not to exceed $100,000

DISCUSSION

Toolworks, a member organization of the Treasure Island Homeless Development Initiative (TIHDI), is a non-profit agency organized to provide services that increase economic opportunities for people with disabilities. One of its programs is contractual janitorial services. Janitorial and other building maintenance services are identified in the draft Homeless Component of the Treasure Island Reuse Plan as one of the economic development opportunities available to assist homeless and other economically disadvantaged San Franciscans. The Board of Supervisors has authorized the Authority to engage in sole source negotiations with TIHDI member organizations for contracts for economic development opportunities identified in the Reuse Plan.

Janitorial services are required for the Treasure Island Project offices and the special event venues. Since the event venues often are booked for both Saturdays and Sundays, janitorial services are needed seven days a week. The proposed contract with Toolworks provides for 69 hours of janitorial services weekly for an amount not to exceed $6,510 per month or $78,120 per year. The contract also provides for $28,880 in additional janitorial services, including carpet cleaning, on an as-needed basis.

RECOMMENDATION

Staff recommends approval of the contract with Toolworks.

AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A CONTRACT WITH TOOLWORKS, INC., A MEMBER ORGANIZATION OF THE TREASURE ISLAND HOMELESS DEVELOPMENT INITIATIVE, AND A CALIFORNIA PUBLIC BENEFIT CORPORATION, FOR AN AMOUNT NOT TO EXCEED $100,000 TO PROVIDE JANITORIAL AND OTHER BUILDING SERVICES FOR THE PERIOD NOVEMBER 1999 THROUGH OCTOBER 2000.

WHEREAS, Naval Station Treasure Island is a military base located on Treasure Island and Yerba Buena Island (together, the "Base"), which is currently owned by the United States of America ("the Federal Government"); and,

WHEREAS, Treasure Island was selected for closure and disposition by the Base Realignment and Closure Commission in 1993, acting under Public Law 101-510, and its subsequent amendments; and,

WHEREAS, In 1995, the General Services Administration and the Bureau of Land Management determined that Yerba Buena Island was surplus to the Federal Government's needs and could be transferred to the administrative jurisdiction of the Department of Defense under the Base Closure and Realignment Act of 1990 and disposed of together with Treasure Island; and,

WHEREAS, On May 2, 1997, the Board of Supervisors passed Resolution No. 380-97, authorizing the Mayor's Treasure Island Project Office to establish a nonprofit public benefit corporation known as the Treasure Island Development Authority (the "Authority") to act as a single entity focused on the planning, redevelopment, reconstruction, rehabilitation, reuse and conversion of the Base for the public interest, convenience, welfare and common benefit of the inhabitants of the City and County of San Francisco; and,

WHEREAS, Under the Treasure Island Conversion Act of 1997, which amended Section 33492.5 of the California Health and Safety Code and added Section 2.1 to Chapter 1333 of the Statutes of 1968 (the "Act"), the California Legislature (I) designated the Authority as a redevelopment agency under California redevelopment law with authority over the Base upon approval of the City's Board of Supervisors, and (ii) with respect to those portions of the Base which are subject to Tidelands Trust, vested in the Authority the Authority to administer the public trust for commerce, navigation and fisheries as to such property; and

WHEREAS, The Board of Supervisors approved the designation of the Authority as a redevelopment agency for Treasure Island in 1997; and,

WHEREAS, the City and County of San Francisco negotiated a proposed Base Closure Homeless Assistance Agreement and Option to Lease Real Property with the Treasure Island Homeless Development Initiative, a California nonprofit corporation organized to utilize the resources of former naval base Treasure Island available to help fill gaps in the continuum of care for homeless persons and families, pursuant to the Base Closure Community Redevelopment and Homeless Assistance Act of 1994; and,

WHEREAS, the Authority wishes to support the Treasure Island Homeless Development Initiative pursuant to the Base Closure Community Redevelopment and Homeless Assistance Act of 1994; and

WHEREAS, the Contractor represents and warrants that it is qualified to perform the janitorial and other building maintenance services required by the Authority as set forth under this Contract; and

WHEREAS, the Authority has negotiated with the Contractor to reach agreement on the scope of work, and budget for the services shown in Appendix A;

Now, therefore be it RESOLVED, That the Authority hereby authorizes the Executive Director of the Project to execute a contract with Toolworks, Inc., a California public benefit corporation, for an amount not to exceed $100,000 to provide janitorial and other building maintenance services for former naval base Treasure Island.

CERTIFICATE OF SECRETARY

I hereby certify that I am the duly elected and acting Secretary of the Treasure Island Development Authority, a California nonprofit public benefit corporation, and that the above Resolution was duly adopted and approved by the Board of Directors of the Authority at a properly noticed meeting on November 10, 1999.

_____

John Elberling, Secretary

CITY AND COUNTY OF SAN FRANCISCO
TREASURE ISLAND DEVELOPMENT AUTHORITY
410 PALM AVENUE
SAN FRANCISCO, CALIFORNIA 94130

AGREEMENT BETWEEN TREASUE ISLAND DEVELOPMENT AUTHORITY

AND

"TOOLWORKS"

This Agreement is made this tenth day of November 1999, in the City and County of San Francisco, State of California, by and between Toolworks hereinafter referred to as "Contractor," and the Treasure Island Development Authority, hereinafter referred to as "Authority," acting by and through the Executive Director of the Authority

Recitals

WHEREAS, Naval Station Treasure Island is a military base located on Treasure Island and Yerba Buena Island (together, the "Base"), which is currently owned by the United States of America ("the Federal Government"); and,

WHEREAS, Treasure Island was selected for closure and disposition by the Base Realignment and Closure Commission in 1993, acting under Public Law 101-510, and its subsequent amendments; and,

WHEREAS, In 1995, the General Services Administration and the Bureau of Land Management determined that Yerba Buena Island was surplus to the Federal Government's needs and could be transferred to the administrative jurisdiction of the Department of Defense under the Base Closure and Realignment Act of 1990 and disposed of together with Treasure Island; and,

WHEREAS, On May 2, 1997, the Board of Supervisors of the Cityh and County of San Francisco ("City") passed Resolution No. 380-97, authorizing the Mayor's Treasure Island Project Office to establish a nonprofit public benefit corporation known as the Treasure Island Development Authority (the "Authority") to act as a single entity focused on the planning, redevelopment, reconstruction, rehabilitation, reuse and conversion of the Base for the public interest, convenience, welfare and common benefit of the inhabitants of the City and County of San Francisco; and,

WHEREAS, Under the Treasure island Conversion Act of 1997, which amended Section 33492.5 of the California Health and Safety Code and added Section 2.1 to Chapter 1333 of the Statutes of 1968 (the "Act"), the California Legislature (I) designated the Authority as a redevelopment agency under California redevelopment law with authority over the Base upon approval of the City's Board of Supervisors, and (ii) with respect to those portions of the Base which are subject to Tidelands Trust, vested in the Authority the Authority to administer the public trust for commerce, navigation and fisheries as to such property; and

WHEREAS, The Board of Supervisors approved the designation of the Authority as a redevelopment agency for Treasure Island in 1997; and,

WHEREAS, It is necessary to provide janitorial and other building maintenance services to fulfill the requirements of the Authority's contract with the United States Navy for caretaker services on the Base, and to promote public health and safety on the Base; and

WHEREAS, the Authority wishes to support the Homeless Assistance Component of the Treasure Island Reuse Plan; and

WHEREAS, the Contractor is a member of the Treasure Island Homeless Development Initiative; and

WHEREAS, the Contractor represents and warrants that it is qualified to janitorial and other building maintenance services required by the Authority as set forth in this Agreement; and

WHEREAS, the Authority has negotiated with the Contractor to reach agreement on the scope of work, and budget for janitorial and other building maintenance as shown in Appendices A and B; and

Now, THEREFORE, the parties agree as follows:

1. Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation

This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges will accrue only after prior written authorization certified by the

Controller of the City and County of San Francisco ("Controller"), and the amount of Authority's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization.

This Agreement will terminate without penalty, liability or expense of any kind to the Authority or City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated.

City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

2. Term of the Agreement

Subject to Section 1, the term of this Agreement shall be from November 10, 1999 through October 31, 2000

3. Effective Date of Agreement

This Agreement shall become effective when the Controller has certified to the availability of funds and Contractor has been notified in writing.

4. Services Contractor Agrees to Perform

The Contractor agrees to perform the tasks outlined in Appendix A "Scope of Services" in accordance with the Project timelines also included in Appendix "A".

5. Compensation

Compensation shall be made through monthly invoices for services that the Executive Director of the Treasure Island Development Authority, in her sole discretion, concludes has been performed as of the last day of the preceding month. Compensation for basic janitorial services to include 69 hours of janitorial services weekly, including weekends and holidays, shall not exceed six thousand five hundred and ten dollars ($6,510.00) per month. In no event shall the amount of this Agreement exceed **ONE HUNDRED THOUSAND DOLLARS ($100,000.00).**

No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until services required under this Agreement are received from Contractor and approved by the Treasure Island Project as being in accordance with this Agreement. The Authority may withhold payment to Contractor in any instance in which

Contractor has failed or refused to satisfy any material obligation provided for under this Agreement.

In no event shall the Authority or City be liable for interest or late charges for any late payments.

6. Guaranteed Maximum Costs

a. The Authority's obligation hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification.

b. Except as may be provided by City ordinances governing emergency conditions, the Authority, the City and their employees and officers are not authorized to request Contractor to perform services or to provide materials, equipment and supplies that would result in Contractor performing services or providing materials, equipment and supplies that are beyond the scope of the services, materials, equipment and supplies agreed upon in the contract unless the agreement is amended in writing and approved as required by law to authorize the additional services, materials, equipment or supplies. The City is not required to reimburse Contractor for services, materials, equipment or supplies that are provided by Contractor which are beyond the scope of the services, materials, equipment and supplies agreed upon in the contract and which were not approved by a written amendment to the agreement having been lawfully executed by the Authority.

c. The Authority, the City and their employees and officers are not authorized to offer or promise to Contractor additional funding for the contract which would exceed the maximum amount of funding provided for in the contract for Contractor's performance under the contract. Additional funding for the contract in excess of the maximum provided in the contract shall require lawful approval and certification by the Controller of the City and County of San Francisco. The Authority and City are not required to honor any offered or promised additional funding for a contract which exceeds the maximum provided in the contract which requires lawful approval and certification of the Controller when the lawful approval and certification by the Controller has not been obtained.

d. The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

7. Payment; Invoice Format

Invoices furnished by Contractor under this Agreement must be in a form acceptable to the Controller, and must include the Contract Progress Payment Authorization number. All amounts paid by Authority to Contractor shall be subject to audit by Authority.

Payment shall be made by Authority to Contractor at the address specified in the section entitled "Notices to the Parties."

8. Submitting False Claims; Monetary Penalties

Pursuant to San Francisco Administrative Code section 6.57, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for three times the amount of damages which the City sustains because of the false claim. A contractor, subcontractor or consultant who submits a false claim shall also be liable to the City for the costs, including attorney's fees, of a civil action brought to recover any of those penalties or damages, and may be liable to the City for a civil penalty of up to $10,000 for each false claim. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

9. Disallowance

Left blank by agreement of the parties.

10. Taxes

a. Payment of any taxes, including possessory interest taxes and California Sales and Use Taxes, levied upon this Agreement, the transaction, or the services delivered pursuant hereto, shall be the obligation of Contractor.

b. If this Agreement entitles Contractor to the possession, occupancy or use of Authority or City real property for private gain, then the following provisions apply:

(1) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that this Agreement may create a possessory interest subject to property taxation and Contractor, and any permitted successor or assign, may be subject to the payment of such taxes.

(2) Contractor, on behalf of itself and any permitted successors and assigns, further recognizes and understands that any assignment permitted hereunder and any exercise of any option to renew or other extension of this Agreement may constitute a change in ownership for purposes of property taxation and therefore may result in a revaluation of any possessory interest created hereunder. Contractor shall report any assignment or other transfer of any interest in this Agreement or any renewal or extension thereof to the County Assessor within sixty days after such assignment, transfer, renewal or extension.

(3) Contractor further agrees to provide such other information as may be requested by the Authority to enable the Authority to comply with any reporting requirements under applicable law with respect to possessory interests.

11. Payment Does Not Imply Acceptance of Work

The granting of any payment by Authority, or the receipt thereof by Contractor, shall in no way lessen the liability of Contractor to replace unsatisfactory work, equipment, or materials although the unsatisfactory character of such work, equipment or materials may not have been apparent or detected at the time such payment was made. Materials, equipment, components, or workmanship which do not conform to the requirements of this Agreement may be rejected by Authority and in such case must be replaced by Contractor without delay.

12. Qualified Personnel

Work under this Agreement shall be performed only by competent personnel under the supervision of and in the employment of Contractor. In performing its rights and responsibilities under this Agreement, Contractor shall comply with workforce hiring goals for qualified homeless or otherwise economically disadvantaged persons and San Francisco residents, as more fully described in Addendum 1 to Appendix A., "Work Force Hiring Goals." The Contractor will comply with the Authority's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at Authority's request, must be supervised by Contractor.

13. Responsibility for Equipment

Authority shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Contractor, or by any of its employees, even though such equipment be furnished, rented or loaned to Contractor by Authority.

14. Independent Contractor; Payment of Taxes and Other Expenses

a. Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by Authority under this Agreement. Contractor is liable for the acts and omissions of itself, its employees and its agents. Nothing in this Agreement shall be construed as creating an employment or agency relationship between Authority and Contractor.

Any terms in this Agreement referring to direction from Authority shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained.

b. Should Authority or City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Contractor is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Contractor which can be applied against this liability). City shall then forward those amounts to the relevant taxing authority.

Should a relevant taxing authority determine a liability for past services performed by Contractor for Authority, upon notification of such fact by Authority, Contractor shall promptly remit such amount due or arrange with Authority to have the amount due withheld from future payments to Contractor under this Agreement (again, offsetting any amounts already paid by Contractor which can be applied as a credit against such liability).

A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Contractor shall not be considered an employee of Authority or City. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Contractor is an employee for any other purpose, then Contractor agrees to a reduction in Authority's financial liability so that Authority's total expenses under this Agreement are not greater than they would have been had the court, arbitrator, or administrative authority determined that Contractor was not an employee.

15. <u>Insurance</u>

a. Without in any way limiting Contractor's liability pursuant to the "Indemnification" section of this Agreement, Contractor must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

(1) Worker's Compensation, with Employers' Liability Limits not less than $1,000,000 each accident; and

(2) Commercial General Liability Insurance with limits not less than $1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and

(3) Business Automobile Liability Insurance with limits not less than $1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.

b. Commercial General Liability and Business Automobile Liability Insurance policies must provide the following:

(1) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

(2) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

c. All policies shall provide:

Thirty (30) days' advance written notice to Authority of cancellation mailed to the following address:

Annemarie Conroy, Executive Director
Treasure Island Development Authority
City and County of San Francisco
410 Palm Avenue Room 229
San Francisco, CA 94130

d. Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

e. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

f. Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the Authority receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the Authority may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

g. Before commencing any operations under this Agreement, Contractor must furnish to Authority certificates of insurance, in form and with insurers satisfactory to Authority, evidencing all coverages set forth above, and shall furnish complete copies of policies promptly upon Authority request.

h. Approval of the insurance by Authority shall not relieve or decrease the liability of Contractor hereunder.

16. Indemnification

Contractor shall indemnify and save harmless Authority and City and their officers, agents and employees from, and, if requested, shall defend them against any and all loss, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of Contractor or loss of or damage to property, resulting directly or indirectly from Contractor's performance of this Agreement, including, but not limited to, the use of Contractor's facilities or equipment provided by Authority, City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on Authority, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of Authority or City and is not

contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Contractor, its subcontractors or either's agent or employee.

In addition to Contractor's obligation to indemnify Authority and City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend Authority and City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by Authority and continues at all times thereafter.

Contractor shall indemnify and hold Authority and City harmless from all loss and liability, including attorney's fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark and all other intellectual property claims of any person or persons in consequence of the use by Authority, City, or any of their officers or agents, of articles or services to be supplied in the performance of this Agreement.

17. Incidental and Consequential Damages

Contractor shall be responsible for incidental and consequential damages resulting in whole or in part from Contractor's acts or omissions. Nothing in this Agreement shall constitute a waiver or limitation of any rights which Authority and/or City may have under applicable law.

18. Liability of Authority

AUTHORITY'S OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 5 OF THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL AUTHORITY OR CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

19. Liquidated Damages

Left blank by agreement of the parties.

20. Bankruptcy

In the event that either party shall cease conducting business in the normal course, become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for its business or assets or shall avail itself of, or become subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any

state relating to insolvency or the protection of rights of creditors, then at the option of the other party this Agreement shall terminate and be of no further force and effect, and any property or rights of such other party, tangible or intangible, shall forthwith be returned to it.

21. Termination/Termination for Convenience

In the event Contractor fails to perform any of its obligations under this Agreement, this Agreement may be terminated and all of Contractor's rights hereunder ended. Termination will be effective after ten days written notice to Contractor. No new work will be undertaken after the date of receipt of any notice of termination, or five days after the date of the notice, whichever is earlier. In the event of such termination, Contractor will be paid for those services performed under this Agreement to the satisfaction of the Authority, up to the date of termination. However, Authority may offset from any such amounts due Contractor any liquidated damages or other costs City has or will incur due to Contractor's non-performance. Any such offset by Authority will not constitute a waiver of any other remedies Authority may have against Contractor for financial injury or otherwise.

Authority may terminate this Agreement for Authority's convenience and without cause at any time by giving Contractor thirty days written notice of such termination. In the event of such termination, Contractor will be paid for those services performed, pursuant to this Agreement, to the satisfaction of the Authority up to the date of termination. In no event will Authority be liable for costs incurred by Contractor after receipt of a notice of termination. Such non-recoverable costs include, but are not limited to, anticipated profits on this Agreement, post-termination employee salaries, post-termination administrative expenses, or any other cost which is not reasonable or authorized under this section. This section shall not prevent Contractor from recovering costs necessarily incurred in discontinuing further work under the contract after receipt of the termination notice.

Upon termination of this Agreement, Contractor will submit an invoice to Authority for an amount which represents the value of its work or services actually performed prior to the effective date of termination for which Contractor has not previously been compensated, except that with respect to reimbursement for Contractor's services, in no event will the compensation paid for the month in which termination occurs be greater than the scheduled monthly fee multiplied by a fraction, the numerator of which will be the days in the month elapsed prior to the termination and the denominator of which shall be 31. Upon approval and payment of this invoice by Authority, Authority shall be under no further obligation to Contractor monetarily or otherwise.

22. Contractor's Default

Failure or refusal of Contractor to perform any work or service or do any act required under this Agreement shall constitute a default. In the event of any default, in addition to any other remedy available to Authority, this Agreement may be terminated by the Authority pursuant to the terms of Section 21 herein. Such termination shall not waive any other legal remedies available to Authority.

23. Conflict of Interest

Through its execution of this Agreement, Contractor acknowledges that it is familiar with the provisions of Section 15.103 and Appendix C 8.105 of City's Charter and Section 87100 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provisions.

24. Proprietary or Confidential Information of Authority and/or City

Contractor understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Contractor may have access to private or confidential information which Authority and/or City to Contractor shall be held in confidence and used only in performance of the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

25. Notices to the Parties

All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and registered as follows:

To Authority and City:
Annemarie Conroy, Executive Director
Treasure Island Development Authority
City and County of San Francisco
410 Palm Avenue Room 229
San Francisco, CA 94130

To Contractor: Toolworks
Donna Feingold, Executive Director
PO Box36014
San Francisco CA 94102
(415/621-8665)

26. Ownership of Results

Any interest of Contractor or its Subcontractors, in drawings, plans, specifications, studies, reports, memoranda, computation sheets, the contents of computer diskettes, or other documents prepared by Contractor or its Subcontractors in connection with services to be performed under this Agreement, shall become the property of and will be transmitted to Authority. However, Contractor may retain and use copies for reference and as documentation of its experience and capabilities.

27. Works for Hire

If, in connection with services performed under this Agreement, Contractor or its subcontractors create artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, source codes or any other original works of authorship, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works are the property of the Authority. If it is ever determined that any works created by Contractor or its subcontractors under this Agreement are not works for hire under U.S. law, Contractor hereby assigns all copyrights to such works to the Authority, and agrees to provide any material and execute any documents necessary to effectuate such assignment. With the approval of the Authority, Contractor may retain and use copies of such works for reference and as documentation of its experience and capabilities.

28. Audit and Inspection of Records

Contractor agrees to maintain and make available to the Authority, during regular business hours, accurate books and accounting records relating to its work under this Agreement. Contractor will permit Authority to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of not less than five years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject of this Agreement shall have the same rights conferred upon Authority by this Section.

29. Subcontracting

Contractor is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is first approved by Authority in a written instrument executed and approved in the same manner as this Agreement. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void.

30. Assignment

The services to be performed by Contractor are personal in character and neither this Agreement nor any duties or obligations hereunder may be assigned or delegated by the Contractor unless first approved by Authority by written instrument executed and approved in the same manner as this Agreement.

31. Minority/Women/Local Business Utilization; Liquidated Damages

Contractor understands and agrees to comply fully with all provisions of Chapter 12D ("Minority/Women/Local Business Utilization") of the San Francisco

Administrative Code. Said provisions are incorporated herein by reference and made a part of this Agreement as though fully set forth.

In the event Contractor willfully fails to comply with any of the provisions of Chapter 12D, Contractor shall be liable for liquidated damages in an amount equal to Contractor's net profit on this Agreement, or ten percent (10%) of the total amount of this Agreement, or one thousand dollars ($1,000), whichever is greatest. The amount of liquidated damages imposed will be determined by the Director of the City's Human Rights Commission (HRC) after investigation pursuant to §12D.14(C).

By entering into this Agreement, Contractor acknowledges and agrees that any liquidated damages assessed by the Director of the HRC shall be payable to Authority upon demand. Contractor further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to Contractor on any contract with Authority.

32. Nondiscrimination; Penalties

(a) Contractor Shall Not Discriminate. In the performance of this Agreement, Contractor agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any Authority or City employee working with, or applicant for employment with Contractor, in any of Contractor's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Contractor.

(b) Subcontracts. Contractor shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing) and shall require all subcontractors to comply with such provisions. Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

(c) Non-Discrimination in Benefits. Contractor does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco or where the work is being performed for the Authority or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law

authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(d) Condition to Contract. As a condition to this Agreement, Contractor shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

(e) Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Contractor understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of $50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Contractor and/or deducted from any payments due Contractor.

33. MacBride Principles--Northern Ireland

Pursuant to San Francisco Administrative Code section 12.F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The Authority urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

34. Tropical Hardwood and Virgin Redwood Ban

Pursuant to San Francisco Administrative Code section 12I.5(b), the Authority urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood or virgin redwood or tropical hardwood or virgin redwood product.

35. Drug-Free Workplace Policy

Contractor acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Contractor agrees that any violation of this prohibition by Contractor, its employees, agents or assigns will be deemed a material breach of this Agreement.

36. Resource Conservation; Liquidated Damages

Chapter 21A of the San Francisco Administrative Code ("Resource Conservation") is incorporated herein by reference. Failure by Contractor to comply with any of the applicable requirements of Chapter 21A will be deemed a material breach of contract.

In the event Contractor fails to comply in good faith with any of the provisions of Chapter 21A, Contractor will be liable for liquidated damages in an amount equal to Contractor's net profit under this Agreement, or five percent (5%) of the total contract amount, whichever is greater. Contractor acknowledges and agrees that the liquidated damages assessed shall be payable to City upon demand and may be offset against any monies due to Contractor from any contract with City.

37. Compliance with Americans with Disabilities Act

Contractor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Contractor shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns will constitute a material breach of this Agreement.

38. Sunshine Ordinance

In accordance with San Francisco Administrative Code section 67.24(e), contracts, contractors' bids, responses to requests for proposals and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

39. Prohibiting City Business with Burma

By its execution of this Agreement, Contractor attests that it is not the government of Burma (Myanmar), a person or business entity organized under the laws of Burma (Myanmar) or a "prohibited person or entity" as defined in San Francisco Administrative Code section 12J.2(G). The City may terminate this Agreement for default if Contractor violates the terms of section 12J.2(G).

Chapter 12J of the San Francisco Administrative Code is hereby incorporated by reference as though fully set forth herein. The failure of Contractor to comply with any of its requirements shall be deemed a material breach of contract. In the event that Contractor fails to comply in good faith with any of the provisions of Chapter 12J of the San Francisco Administrative Code, Contractor shall be liable for liquidated damages for each violation in an amount equal to Contractor's net profit under the contract, or 10% of the total amount of the contract, or $1,000, whichever is greatest. Contractor acknowledges and agrees that the liquidated damages assessed shall be payable to the City upon demand and may be set off against any moneys due to the Contractor from any City contract.

40. **Non-Waiver of Rights**

The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

41. **Modification of Agreement**

This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement.

42. **Administrative Remedy for Agreement Interpretation**

Should any question arise as to the meaning and intent of this Agreement, the question shall, prior to any other action or resort to any other legal remedy, be referred to the San Francisco City Attorney who shall decide the true meaning and intent of the Agreement.

43. **Agreement Made in California; Venue**

The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

44. **Construction**

All paragraph captions are for reference only and shall not be considered in construing this Agreement.

45. Entire Agreement

This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This contract may be modified only as provided in Section 41.

46. Compliance With Laws

Contractor shall keep itself fully informed of the City's Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

47. Severability

Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

AUTHORITY

Recommended and approved by:

_____
Annemarie Conroy, Executive Director
Treasure Island Development Authority

Louise H. Renne
City Attorney

By _____
Deputy City Attorney

Approved:

Edwin Lee
City Purchaser

By _____-

CONTRACTOR

By Donna Feingold, Executive Director
Toolworks
PO Box 36014
San Francisco CA 94102
415/621-8665
FEIN: 94-2493384

I have read and understood Sec. 33, the City's statement urging companies doing business in Northern Ireland to move towards resolving employment inequities, encouraging compliance with the MacBride Principles, and urging San Francisco companies to do business with corporations that abide by the MacBride Principles.

_____
By Donna Feingold, Executive Director
Toolworks
450 Golden Gate Avenue
PO Box 36014
San Francisco CA 94102
415/621-8665

APPENDIX A SCOPE OF SERVICES

SCOPE OF SERVICES

For the following Treasure and Yerba Buena Island facilities:

- **Furnish all labor and materials for scheduled janitorial services**
- **Provide all necessary dispensers for soap, towels, toilet paper, seat covers and assure dispenser uniformity among all venues**
- **Stock all venues with cleaning supplies and appliances, including vacuum cleaners, mops, brooms, brushes**
- **Provide transportation of all staff among venues**
    - Building One. 410 Palm Avenue
    - Casa de la Vista
    - Chapel
    - Fogwatch
    - Nimitz Conference Center
    - Nimitz House

Services to be performed:

- Pick-up and removal all trash
- Removal all leftover decorations
- Vacuum all rugs
- Sweep all floors
- Mop all floors
- Dry-mop hardwood floors
- Spot clean all rugs and floors
- Dust and clean all furniture, ledges, corners, windowsills, countertops, and all dirt & dust gathering surfaces
- Dust around door and window ledges
- Dust cobwebs
- Clean all accessible windows inside and out
- Clean all mirrors and glass doors
- Clean all bathrooms, including toilets, urinals, sinks, countertops, windows, ledges, floors, stalls
- Clean all kitchens, including floors, appliances, mirrors. windows, and ledges
- Clean all appliances, inside and out, including ovens, refrigerators, freezers, grills and sinks
- Clean all bar areas including floors, appliances, under any mats, sinks
- Clean all fireplace covers and ledges
- Clean all rooms, including storage rooms, of all facilities
- Wipe off and clean all tabletops, table legs and chairs
- In Chapel, clean pews, , dusts & polish podiums and pulpit and shelving area behind altar

- For all facilities clean in and around all doorways (inside and outside), sweep and remove trash for all entries and walkways
- In Casa, clean and sweep patio, empty trash cans and ashtrays, check landscaping for trash and remove
- Refill and replace bathroom and kitchen supplies including hand soap, hand towels, toilet paper, seat covers – all containers must be full at all times
- Keep bathroom and kitchen supply cabinets fully stocked

For Building One:
- Monthly: buff resilient floors
- Monthly polish brass railings and other brass fixtures
- Yearly: refinish all hard floors

For any questions, to report damages, or problems, contact the Mayor's Treasure Island Project Office:

Lori Mazzola, Special Events Coordinator, tel: 274-0312
Bob Mahoney, Deputy Executive Director, tel:274-0660

ADDENDUM 1 TO APPENDIX A

1. WORKFORCE HIRING GOALS

In performing its rights and responsibilities under this Agreement, Contractor shall comply with the following workforce hiring goals for qualified homeless or otherwise economically disadvantaged persons and San Francisco residents.

1.1 Contractor's Workforce Hiring Goals. Contractor shall use Good faith Efforts to meet the work force hiring goals described herein (the "Workforce Goals"). For purposes of this Section 1, Contractor's Good Faith Efforts shall include, but not be limited to, the following:

(a) Submitting detailed written plans describing how Contractor intends to meet the Workforce Goals (a "Hiring Plan").

(b) Listing jobs available on the Premises with the TIHDI Job Broker at least two weeks prior to advertising for applicants elsewhere;

(c) Considering for appropriate job openings all candidates who are qualified, screened and referred to it by the TIHDI Job Broker;

(d) Establishing with TIHDI mutually acceptable means of communicating about job openings and provide information about jobs and about outcomes of referrals within a reasonable time upon request by the TIHDI Job Broker;

(e) Consulting with the TIHDI Job Broker on an ongoing basis about how to meet Contractor's Workforce Goals; and

(f) Meeting and conferring with the TIHDI Job Broker to discuss and attempt to resolve any problems with Contractor meeting its Workforce Goals.

1.2 Burden of Proof. If the Workforce Goals are not met, Contractor shall have the burden of establishing in any Enforcement Procedure described in Section 1.9 below that it made Good Faith Efforts and that the candidates who were selected were better qualified for work than the homeless or economically disadvantages persons who applied or were referred by the TIHDI Job Broker.

1.3 Construction Workforce. Without obligation (other than as expressly set forth herein), Contractor shall also be required to give consideration for hiring on all construction projects on the Premises to qualified homeless or otherwise economically disadvantaged persons, and to qualified residents of San Francisco whose annual income,

at the time of hire, is at or below fifty percent (50%) of median income for the City as determined by HUD.

1.4 **Subcontracting**. Contractor will consider subcontracting certain tasks to be performed by Contractor under this Agreement to TIHDI member organizations, particularly for grounds keeping, janitorial, recycling and deconstruction activities. Subcontracts with TIHDI organizations will be included for purposes of determining Contractor's Good Faith Efforts to meet the Work Force Goals.

1.5 **Hiring Plan.**

(a) Contractor shall submit its Hiring Plan to the Authority within sixty (60) days of the Commencement Date. Contractor's Hiring Plan shall include a detailed description of how Contractor intends to meet its Workforce Goals, which description should include community outreach and recruiting efforts, hiring procedures (e.g., phased hiring), a projected schedule for meeting the Workforce Goals, and alternative courses of action if it appears that the Workforce Goals will not be met.

(b) During the first 30 days after the Hiring Plan is submitted, the Authority and Contractor shall negotiate in good faith solutions to any deficiencies in the Hiring Plan as reasonably determined by the Authority. At the expiration of such 30-day period, the Authority shall advise Contractor, through a written "Notice of Noncompliance," of any alleged deficiency in the Hiring Plan remaining at the close of such negotiations. The Notice of Noncompliance shall state the specific basis for the alleged deficiency(ies) and the Authority's suggested cure. Contractor shall advise the Authority within 10 days of its receipt of the Notice of Noncompliance whether Contractor accepts the suggested cure. If the Contractor rejects the suggested cure, either party may proceed immediately to the Enforcement Procedure pursuant to Section 1.9 below by filing a Request for Enforcement ("Request") on the Hiring Plan. The Request shall specify the issues presented and the relief requested.

1.6 **Reports**. Contractor shall prepare reports regarding the composition of Contractor's work force reasonably satisfactory to the Authority.

1.7 **Matters Subject to Enforcement Procedure**. In addition to the initial preparation of the Hiring Plan, all matters related to implementing the Hiring Plan and the Workforce Goals are subject to the Enforcement Procedure described in Section 1.9 below.

1.8 **Implementation of Enforcement Procedure**. The Enforcement Procedure, as provided for in Section 1.9 below, shall be the exclusive procedure for

resolving any dispute concerning the interpretation or implementation of the Hiring Plan or any alleged deficiency in Contractor's Good Faith Efforts to achieve the Workforce Goals. The Enforcement Procedure shall be implemented by the Human Rights Commission of the City of County of San Francisco (the "Commission"), which shall have the powers described below unless otherwise provided by law.

(a) All subcontracts related to the Agreement ("Subcontracts") shall incorporate the provisions of this Section 1 and the Authority shall have the right to enforce said obligations, requirements and agreements against the Contractor or its subcontractors. Contractor shall require, by contract, that each subcontractor participates in Enforcement Procedure proceedings in which it may be identified in a Request, and that each subcontractor shall be bound by the outcome of such Enforcement Procedure according to the decision of the Commission.

1.9 Enforcement Procedure.

(a) If the Authority reasonably determines that Contractor has failed to use Good Faith Efforts to meet the Workforce Goals, or for any other matter subject to this Enforcement Procedure the Authority shall send a written Notice of Noncompliance to Contractor describing the basis for its determination and suggesting a means to cure any deficiencies. If Contractor does not, in the reasonable discretion of the Authority, cure the deficiency within ten (10) days, the matter shall be submitted to the following Enforcement Procedure.

(i) Prior to the filing and service of a Request, the parties to any dispute shall meet and confer in an attempt to resolve the dispute.

(ii) The Authority, Contractor or any subcontractor may commence resolution of any dispute covered by the Enforcement Procedure by filing a Request with the Commission. Where the Authority is not the complaining party, the Request shall be served on the Authority. Where the Authority is the complaining party, the Request shall be served on the Contractor at the Notice Address listed in the Agreement, and the non-compliant subcontractor, if any, if such service can be achieved with reasonable effort. The Request shall be filed and served either by hand delivery or by registered or certified mail. The Request shall identify the entities involved in the dispute and state the exact nature of the dispute and the relief sought. If the complaining party seeks a temporary restraining order and/or a preliminary injunction, the Request shall so state in the caption of the Request.

(iii) Service on the Contractor of the Request or any notice provided for by this Section 1 shall constitute service of the Request or notice on all

subcontractors who are identified as being in alleged noncompliance in the Request. The Contractor shall promptly serve the Request or notice, by hand delivery or registered or certified mail, on all such subcontractors.

(iv) The TIHDI Job Broker shall have the right to present testimony or documentary evidence at Enforcement Procedure proceedings.

(v) After the filing and the service of a Request, the parties shall negotiate in good faith for a period of 10 business days in an attempt to resolve the dispute; provided that the complaining party may proceed immediately to the Enforcement Procedure, without engaging in such a conference or negotiations, if the facts could reasonably be construed to support the issuance of a temporary restraining order or a preliminary injunction ("Temporary Relief"). The Commission shall determine whether the facts reasonably supported the issuance of Temporary Relief.

(vi) If the dispute is not settled within 10 business days, a hearing shall be held within 90 days of the date of the filing of the Request, unless otherwise agreed by the parties or ordered by the Commission upon a showing of good cause; provided, that if the complaining party seeks a temporary restraining order, the hearing on the motion for a temporary restraining order shall be heard not later than two (2) business days after the filing of the Request, and provided further, if a party seeks a preliminary injunction, such motion shall be heard on 15 days' notice. The Commission shall set the date, time and place for the Enforcement Procedure hearing(s) within the proscribed time periods by giving notice by hand delivery to the Authority and the Contractor; except, where a temporary restraining order is sought, the Commission may give notice of the hearing date, time and place to the Authority, Contractor and any affected subcontractor by telephone.

(vii) In the Enforcement Procedure proceedings hereunder, discovery shall be permitted in accordance with Code of Civil Procedure §1283.05.

(b) Commission's Decision. The Commission shall render a decision within 20 days of the date that the hearing on a Request is completed; provided that where a temporary restraining order is sought, the Commission shall render a decision not later than 24 hours after the hearing on the motion. The Commission shall send the decision by certified or registered mail to the Authority, the Contractor and the subcontractor, if any.

(i) The Commission may enter a default award against any party who fails to appear at the hearing; provided said party received actual notice of the hearing. In a proceeding seeking a default award against a party other than the

Contractor, the Contractor shall provide proof of service on the party as required by this Article. If the Contractor fails to provide proof of service, the Contractor shall pay $2,500 as liquidated damages to the Authority, provided that no such damages shall be assessed if the Contractor demonstrates that it made good faith efforts to serve the party. In order to obtain a default award, the complaining party need not first seek or obtain an order to arbitrate the controversy pursuant to Code of Civil Procedure §1281.2.

(ii) Except as otherwise provided in this Section 1, the Commission shall have no power to add to, subtract from, disregard, modify or otherwise alter the terms of the Agreement, or to negotiate new agreements or provisions between the parties.

(iii) The inquiry of the Commission shall be restricted to the particular controversy that gave rise to the request for the Enforcement Procedure. A decision of the Commission issued hereunder shall be final and binding upon the Authority, Contractor, and subcontractors, if any, sent by mail to the Authority, the Contractor and the subcontractor, if any. The losing party shall pay the Commission's fees and related costs of the Enforcement Procedure. If a subcontractor is the losing party and fails to pay said fees within 30 days of the decision, the Contractor shall pay the fees. Each party shall pay its own attorneys' fees provided that fees may be awarded to the prevailing party if the Commission finds that the Request was frivolous or that the Enforcement Procedure action was otherwise instituted or litigated in bad faith. Judgment upon the Commission's decision may be entered in any court of competent jurisdiction.

(c) Remedies and Sanctions. Except as may otherwise be expressly provided herein, the Commission may impose only the remedies and sanctions set forth below and only against the non-compliant party(ies):

(i) Order specific, reasonable actions and procedures, in the form of a temporary restraining order, preliminary injunction or permanent injunction, to mitigate the effects of the Contractor's failure to make Good Faith Efforts, and/or to require Contractor and/or its subcontractors to make such Good Faith Efforts, including, but not limited to, orders enjoining the Contractor from recruiting, screening or hiring (through new hires, transfers or otherwise) any person for employment at the Premises pending resolution of the alleged deficiency(ies) in the Hiring Plan or Contractor's implementation of the Workforce Goals.

(ii) Require the Contractor or Subcontractors to refrain from entering into new contracts related to work related to the Agreement, or from granting extensions or other modifications to existing contracts related to the Agreement, other

than those minor modifications or extensions necessary to enable completion of the work covered by the existing contract, with any non-compliant subcontractor until such subcontractor provides assurances satisfactory to the Authority and the Contractor of future Good Faith Efforts to comply with the Workforce Goals.

(iii) Direct the Contractor or subcontractor to cancel, terminate, suspend or cause to be canceled, terminated or suspended, any contract or lease or portion(s) thereof for failure of the subcontractor to make Good Faith Efforts to comply with the Workforce Goals, provided, however that Subcontracts may be continued upon the condition that a program for future compliance is approved by the Authority.

(iv) If the Contractor or subcontractor is found to be in willful breach of its obligations to make Good Faith Efforts to achieve the Workforce Goals, impose financial penalties not to exceed $50,000 or 10 percent of the total monetary consideration contemplated by the Agreement, whichever is less, for each such breach on the party responsible for the willful breach; provided, however, no penalty shall be imposed pursuant to this paragraph for the first willful breach unless the breaching party has failed to cure after being provided notice and a reasonable opportunity to cure. The Contractor or subcontractor may impose penalties for subsequent willful breaches whether or not the breach is subsequently cured. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.

(v) Direct that the Contractor or subcontractor produce and provide to the Authority any records, data or reports that are necessary to determine if a violation has occurred and/or to monitor the performance of the Contractor or Subcontractor.

(vi) Issue such other relief deemed necessary to ensure that the Hiring Plan is written and implemented, and that Contractor makes Good Faith Efforts to meet its Workforce Goals, including requiring the inclusion or exclusion of specific terms or provisions in the Hiring Plan based on a determination that the term(s) added or removed further the requirements and objectives of this Section 1.

(d) Delays due to enforcement. If Contractor does not timely perform its obligations under the Agreement with the Authority because of a Commission's order against a party other than the Contractor, such order shall be deemed an event of Force Majeure, and the time for any performance by the Contractor shall be extended as provided therein; provided, however, that Contractor shall make good faith efforts to minimize any delays.

(e) **Exculpatory clause.** The Contractor and its subcontractors hereby forever waive and release any and all claims against the Authority for Losses arising under or related to this Section 1.

(f) **California law applies.** California law, including the California Arbitration Act, Code of Civil Procedure §§1280 through 1294.2, shall govern all the Enforcement Procedure proceedings.

(g) **Designation of agent for service.** Not later than five (5) days after the execution of this Agreement, the Contractor shall designate a person or business, residing or located in the City and County of San Francisco, as its agent for service of a Request and all notices provided for herein. If the Contractor has an office located in San Francisco, it may designate itself as agent for service. The designation shall be served on

1.10. Relationship to Other Employment Agreements. Nothing in this Agreement shall be interpreted to prohibit the continuation of existing workforce-training agreements or interfere with consent decrees, collective bargaining agreements or existing employment contracts. In the case of collective bargaining agreements, Contractor will take primary responsibility for integrating the requirements of Contractor's Workforce Goals with any such collective bargaining agreements. As necessary, Contractor will attempt to negotiate equivalent first source hiring obligations with relevant unions.

APPENDIX B BUDGET

For an amount not to exceed $6,510 month, or $78,120 per year provide:

- 69 hours of janitorial services weekly, including weekends and holidays
- cleaning equipment, materials and supplies
- soap, toilet paper, hand towels, seat covers for all restrooms and kitchens in all venues
- Uniform soap and paper goods dispensers for all restrooms and kitchens in all venues
- transport of equipment and personnel among venues

For an amount not to exceed $28,880 per year at the specific request of Special Events Coordinator, or Deputy Executive Director:

- Carpet cleaning @ $40.00 per 500 square feet (500 sf minimum service area)
- Additional window cleaning @ $25 per hour
- Additional janitorial services @ $25 per hour

Notes

AGENDA ITEM
Treasure Island Development Authority
City and County of San Francisco

Subject: Workshop on the Preliminary Development Concept for the Marina at Treasure Island

Agenda Item No. 9
Meeting of November 10, 1999

Contact/Phone: Annemarie Conroy, Executive Director
Stephen Proud, Director of Development
274-0660

I. BACKGROUND

The Authority issued a Request for Proposals ("RFP") related to the development and expansion of the Treasure Island Marina on January 21, 1998. Based on that RFP process, on February 17, 1999, the Authority authorized staff to prepare an exclusive negotiating agreement (ENA) with Treasure Island Enterprises (TIE), which was executed on June 9,1999. Pursuant to the terms of the ENA, TIE and Authority staff were directed to negotiate and create long-term agreements for the development and expansion of the Marina as contemplated by the RFP (the "Project"). To reach that goal, the ENA set forth a number of milestones related to the negotiations, with specific target dates. One of those milestones was the presentation to the Authority by TIE of a Preliminary Development Concept (PDC) for the Marina.

In reviewing the PDC, it is important to recognize that its purpose is limited to obtaining the Authority's input on the proposed boundaries and general concept plan for the Project, including a basic description of anticipated uses. Establishing these basic parameters is an important step to allow further refinement of the development concept and to permit staff and TIE to commence meaningful term sheet negotiations. For example, in order to reach agreement on fair market rent, the extent of public improvements and other basic business terms, TIE must first prepare initial revenue and cost pro-formas. However, before those pro-formas can be prepared, it is necessary to determine the overall physical scope of the Project and to identify generally anticipated uses.

In preparing the PDC, TIE met with Authority Staff, the Economic Development Conveyance (EDC) consultant team, and Planning Department Staff to solicit input on the design. The proposed preliminary design and land use program seeks to balance the various comments that were presented in those meetings. The following sections provide additional background information, which may be helpful in reviewing the PDC.

II. EXISTING CONDITIONS

There are two areas under consideration for the PDC. The first is a linear strip of land immediately adjacent to Clipper Cove and the water area as shown on Exhibit A-1. The area lies

to the south of Buildings 1, 2, and 3 which are historic structures which must be preserved, and borders the end of Building 180. Buildings 2 and 3 are currently used for television and film production, and the Authority as a venue for special events uses Building 180.

Virtually the entire land side portion of the proposed site is paved and currently used for parking, storage, and limited "back lot" activities for the studios. There are several small structures scattered throughout the paved areas and fencing limits access to the water and impedes travel from one end of the waterfront to the other.

The existing marina occupies the western portion of Clipper Cove. It consists of 108 slips located along three primary docks, and a small office facility located on the main dock, which is supported by two large pontoons. The existing marina is undergoing repairs to correct deferred maintenance as part of the interim operating agreement with TIE previously approved by the Authority.

There is an existing seawall which separates the land side development from the in-water development. During the early reuse planning for Treasure Island, a finding was made that the seawall would require strengthening to improve the seismic performance of the Island (specifically to lessen the impact of lateral spreading).

The second area under consideration is a small portion of paved property located in the northeast corner of the Island, as shown in Exhibit A-2. This property would be used for dry-stack storage and launching of boats. The site is currently a paved parking lot with access to a launching ramp that is protected from the prevailing ocean current by an existing breakwater.

III. DEVELOPMENT GUIDELINES

In preparing the PDC, the development team considered several sources of input including: (i) the policy guidance set forth in the Draft Reuse Plan; (ii) certain development guidelines prepared by the Planning Department as part of the marina proposal evaluation process in March 1998 (attached as Exhibit B); and (iii) comments derived from numerous meetings with Authority staff, members of the EDC consultant team, and the San Francisco Planning Department. Although policy guidance and input from staff covered a broad range of issues, the proposed PDC addresses the following four primary issues.

DEVELOPMENT FLEXIBILITY

As the Treasure Island Development Authority moves forward with the acquisition of the Island from the Navy and long-term redevelopment, it is critical to preserve opportunities for master development. Under its proposal submitted in response to the RFP, TIE sought to develop the in-water marina facilities, as well as land side development that included the temporary use of Building 180 for marina operations, to be replaced by a new facility at project build-out. In addition the original proposal included an optional add-on that included the use of the Casa de la Vista, the Chapel, and the Library to service the marina tenants and serve as destination special events location.

As part of the RFP process, the Casa/Chapel/Library concept was eliminated from the project. In addition, after consultation with the EDC consultant team, it became clear that the Building 180 site (including the adjacent parking) is a critical component of the long-term master development program and that portions of the site should also be excluded from the development program for the marina. The consultant team felt the configuration of the Job Corps facility divides the Island in half, and that the Building 180 site represents an opportunity to unify or bring some continuity to a larger master development program. As a result, the boundaries for the PDC (described below) is largely restricted to a linear development site immediately adjacent to the water.

Interim Reuse

In addition to preserving long-term development options on the Island, the Authority staff was also concerned about interim revenues derived from the use of Building 180 as special events venue. Thus, under the PDC the Authority can continue the use of Building 180 to generate interim revenues, and the site is preserved for long-term development as outlined above.

Public Access/Open Space

One of the key components of the PDC is the provision of public access and open space areas. It is clear based on the policies set forth in the Draft Reuse Plan that public access and open space areas are an essential part of the marina development and staff believes the PDC satisfies this policy. However, in defining the precise design, size, and location of such public areas, the Draft Reuse plan provides conflicting guidance, which had to be reconciled.

For example, the Draft Reuse Plan notes in several places that a "public promenade and open area around the entire Island" should be created and that this area may include parks and plazas to connect the Island to the Bay. This shoreline open space system should create opportunities for "walking, bicycling, roller-skating, and other linear activities…(including) birdwatching, enjoyment of surrounding views, and other recreational activities". Guidance for implementation of the shoreline open space is contained in the Land Use and the Access and Circulation Sections of the Draft Reuse Plan which note that a reinforced perimeter is planned that "includes a bikeway and road as well as a path for pedestrian movement…it is envisioned that the improvements will occur, for the most part, within a 100 foot band along the shoreline".

However, in reviewing the urban design guidelines for Clipper Cove, set forth in the Urban Design Section of the Draft Reuse Plan, the description of the open space system differs from the sections noted above. The Urban Design Section states that

> Although steep slopes at Yerba Buena Island would limit the completion of a walkway around the entire cove, a large extent of shoreline can be made more accessible through the development of a walkway from Pier 1 past the Marina to the beach and picnic grounds at Yerba Buena Island. This shoreline pathway should be a minimum of eight feet in width, with passable overlooks along the waters edge wherever feasible.

Thus, it is likely that the precise width and design of perimeter open space will vary at different locations around the Island. For example, while it may be possible to design a 100 foot open space area along the western shoreline (as envisioned in the Access and Circulation Section of the Draft Reuse Plan), it would be impractical to implement that same width and design in other areas on the Island, such as near the housing areas or along some portions of the eastern shoreline. As described below, the PDC provides extensive public access and open space, including a public promenade and a public pier extending into the cove. The open space design reflects a reconciliation of the policies set forth in the Draft Reuse Plan and the desire to create a space that is appropriately scaled to the overall development program.

Parking

As noted in the Draft Reuse Plan, vehicular access to Yerba Buena and Treasure Island is highly constrained by capacity limitations of the Bay Bridge and the ramps. As a result, the Draft Reuse Plan envisioned that reuse of the Base would require many long-term uses be serviced via ferry and that the number of parking spaces be limited. While proposed uses such as hotels and a visitor-oriented attraction contemplated by the Reuse Plan may be well suited for access by ferry, access to the marina will more likely involve private vehicles (although those vehicles will generally arrive during off-peak hours on the weekends). As such, it is important that the PDC balance the need to provide parking for marina operations with the need to limit the overall number of private auto trips to the Island.

In determining the number of spaces and location of parking in the PDC, consideration was given to two factors. First, since the final development program for the remainder of Treasure Island is unknown, it is important that the Marina be a self-contained development. This requires that the project boundaries be drawn to include all the parking areas required to support the Marina operation. In general, the proposed parking areas in the PDC are areas that are currently paved and used for parking or storage. They include the current marina parking lot, the parking areas between Buildings 2 & 3 and the water, and the parking lot for Building 3.

The second consideration given to the parking is the number of spaces required to support the marina operation. Based on development standards, typical marinas have a parking ratio of .75 (75 parking spaces per 100 slips), not including other land side development. Based on this ratio, the number of parking spaces required to support 400 slips would be 300, plus some additional amount to support the land side development. In the PDC, Treasure Island Enterprises is proposing a parking ratio of .6 (inclusive of landside development) which would result in a parking total of 240 spaces. At the present time, staff feels comfortable moving forward based on this figure; however, other factors such as the EIR/EIS may ultimately require that the number of spaces be changed before final agreements are approved.

IV. PRELIMINARY DEVELOPMENT CONCEPT

As noted above, the purpose of the PDC is to present TIDA with concepts on project boundaries, water and landside development concepts, breakwater and public pier designs, and an analysis of the scope of proposed uses. Authority staff has negotiated with TIE with an eye towards ensuring compliance with the Draft Reuse Plan, including its parking limitations, protecting

public access to the water, providing flexibility for long-term master development of the Island, ensuring a high quality marina, and preserving important interim revenues, while at the same time creating a development concept that is economically viable for the developer. With those goals in mind, staff has worked with TIE to ensure the marina development can occur in phases and is adaptable to changing circumstances. The following sections provide a description of the proposed preliminary development concept.

Project Boundaries

The proposed project boundary stretches from the causeway at the western end of Treasure Island approximately 2,100 feet along the water's edge to the location of the proposed floating breakwater/wave attenuator at the eastern end, and from approximately 900 feet into Clipper Cove along the southern border, as shown in Exhibit A-1. The Project boundary is long and narrow and conforms generally to the project boundary proposed in the RFP.

Marina Boundaries. The longest mainwalk will extend approximately 700 feet from the shoreline into Clipper Cove. The public pier and floating breakwater/wave attenuator will extend approximately 700 feet and 750 feet into Clipper Cove, respectively. The remaining slips will extend approximately 400 (H Dock) to 630 (D Dock) feet in length. The marina boundary occupies less than half the distance between Treasure Island and Yerba Buena Island to provide ingress and egress to the Marina, consistent with the development polices crafted by the Planning department. This boundary is consistent with the RFP proposal and respects the long, narrow nature of Clipper Cove basin.

Landside Boundaries. The landside boundary is described above and is generally consistent with the boundary proposed by TIE in their response to the RFP with the following exception. The original proposal included Building 180 and the adjacent parking lot (i.e., the existing parking lot between Building 180 and Building 2). As noted above, Building 180 and the adjacent parking lot have been removed from the proposed project at staff's request to preserve an uninterrupted corridor from Building 1 to the eastern shoreline for short-term revenue generation activities and to preserve the integrity of longer-term master development opportunities.

Landside Improvements

TIE's proposal envisions a pedestrian walkway and viewing locations along the water's edge lined by palm trees to the north, a bikepath/roller-skating/utility vehicle drive directly adjacent and additional landscaping leading to three relatively small existing parking areas. For discussion purposes, Exhibit C presents two possible design configurations. While they share many similar attributes, the primary difference between the two options relates to the placement of the proposed new buildings, and the treatment of access and parking. The following sections provide additional detail on four of the primary use/design considerations in the preliminary development.

New Restaurant & Office Use. Due to the exclusion of building 180 from the PDC, TIE has proposed to construct two new structures. The first would contain restaurant and catering service

space ("Building A") and the second would contain public space, the yacht club and administrative space ("Building B"). Both buildings would be two-stories in height. Building A would be approximately 11,500 square feet and Building B would be approximately 9,150 square feet. Boat sales, originally proposed to take place in Building 180 would now take place in-water, along a marina pier designated for that use. Exhibit C shows two options for the placement of the new restaurant and marina administrative buildings. TIE prefers the placement depicted in Option A, closest to the center of the marina.

Parking. TIE originally proposed parking at two locations: (1) the shared Marina/Delancey Street Cafe parking lot; and (2) the parking area between Building 180 and Building 2. As the PDC has evolved, the parking locations have been amended as follows: (1) continued use of approximately 30 spaces in the shared Marina parking/Delancey Street Cafe parking area; (2) approximately 45 parking spaces in front of Building 2; (3) approximately 65 spaces in front of Building 3; and (4) a 100+ spaces at the northern edge of Clipper Cove.

All of the parking locations already exist within the 100-foot shoreline band. Access to this location would occur via entry from California Street. Landscaping and screening would shelter the shared Marina/Delancey Street Cafe parking area from view from the causeway entering Treasure Island.

To address runoff from marina related parking facilities, TIE proposes the following improvements: (1) For areas of sheet run-off, TIE will trench drains in place at the lowest edge to collect run-off before it enters the Bay. The run-off will then be run through a sediment trap, where oil, grease and other sediment will be captured, before flowing into the Bay; (2) For existing catch basins, TIE proposes upgrades to filtering systems to ensure that oil, grease and other sediments do not run-off into the Bay. Both of these proposed measures represent improvements to the existing system, which allows runoff to drain directly into the Bay, and are standard practices recognized by all applicable regulatory agencies.

It is important to note that the San Francisco Bay Conservation and Development Commission (BCDC) "San Francisco Bay Plan" does not prohibit parking within the 100- foot shoreline band. To the contrary, BCDC favors marina uses close to the shoreline, as well as parking to facilitate public access.

Dry-stack Storage. Dry-stack boat storage has always been a part of TIE's proposal. It was originally programmed for Building 180; however, the exclusion of that facility from the development program required the consideration of other possible locations. Moreover, because the marina serves as the "front door" to the Island, a determination was made that this activity should be located somewhere else on the Island. Thus, TIE and Authority staff are proposing a location in the northeast corner of the Island, in the vicinity of Buildings 264 and 461 and the existing boat launch area, as shown on Exhibit A-2. This area is currently a parking lot and is not currently slated for any long-term development opportunities, but rather will like be the location for institutional uses supporting, among other things, a sewage treatment plant and the Brig. TIE has expressed a willingness to remain flexible with regard to the ultimate location for dry-stack storage as future needs arise. However, the proposed location has the advantage of being close to an existing boat launch and provides opportunities for "mast-up" storage.

Width and Use of Shoreline Promenade. TIE proposes to provide a pathway for use by pedestrians, bicyclists, and roller-skaters. As shown in Exhibit D, the design for this corridor can vary, but the intent is to provide an open space system that is generally consistent with the policies set forth in the Draft Reuse Plan. While the design options set forth in Exhibit E show a slightly narrower open space area than 100 feet, it is more extensive than the program set forth in the Urban Design Section. Moreover, as noted above, it reflects staffs' position that the precise width of the shoreline open space system must vary at different locations around the Island to accommodate existing or proposed development. In addition, the proposed width creates a "user friendly" environment with strong connections to the water's edge.

Marina Slip Improvements

The proposed marina includes 403 slips and is approximately 2,013 feet in length, as shown in Exhibit E. There are 8 mainwalks, 6 of which, including the mega-yacht mainwalk, are located towards the eastern end of the marina. In addition, the proposed marina includes a floating breakwater/wave attenuator, which includes state-of-the-art fuel and pump-out facilities, and the marina will include energy conservation metering, telephone and cable services and security. As shown on Table 1, slip lengths will range from 23 feet to 70 feet providing the flexibility to service all types of boaters. Table 2 shows the configuration totals for the marina.

Public access to the water will be provided via a 700-foot public pier located at the center of the marina that is handicapped accessible. The public pier will be equipped to permit manually launched, non-motorized light watercraft, such as kayaks and canoes.

Table 1: Proposed Slip Mix

Length	Quantity	Lineal Foot	%
25'	37	925'	9.2%
30'	67	2010'	16.6%
35'	63	2205'	15.6%
40'	64	2560'	15.9%
45'	62	2790'	15.4%
50'	47	2350'	11.7%
60'	40	2400'	9.9%
70'	23	1610'	5.7%
Totals	**403**	**16,850'**	**100%**

Table 2: Overall Marina Configuration

A-E Dock Square Footage = 76,600.8'
F (Public) Dock = 5,352'
G-H Dock = 34,448'
Wave Attenuator/Fuel Dock/Floating Breakwater Square Footage = 13,500'
Pedestrian Dock Square Footage = 8,292'
Total Square Footage = 138,192.8'

In general, the marina slip components of TIE's preliminary development concept is substantially similar to their original proposal, with the only significant change involving the location of the mega-yacht dock. Based on input from Authority Staff and the Planning Department, the mega yacht dock has been moved from the western edge of Clipper Cove's basin to a more central area at the Marina.

Floating Breakwater and Wave Attenuator

TIE is proposing the construction of a floating breakwater and wave attentuator to protect Clipper Cove from the 3-mile fetch that the marina is exposed to from an easterly direction. The need for a floating breakwater and wave attenuator was confirmed by Bellingham Marine in a report previously provided to the TIDA on December 18, 1998. The floating breakwater and wave attentuator will house a convenience store, and a state-of-the-art pump-out station and fuel station. Temporary side ties will be available.

V. MARINA OPERATIONS

TIE is currently managing the existing 108 slip marina and dry-stack storage facility (which will begin operation soon) and will manage the new marina. Management of the existing facility provides it the opportunity to begin developing a market identity and gain experience with testing and tapping under served or less well-served markets for marina uses. The initial phase of development, operation, and marketing of Treasure Island will reflect the desire of Bay Area residents to enjoy boating as a year-round sport, and their interest in experiencing new and exciting public venues available on Treasure Island. TIE's marketing and promotional campaign will embody the distinctive identity of Treasure Island, its history and its premiere location to experience sailing, boating and waterfront access in the Bay Area.

On-site managers will handle the day to day management of the marina. TIE has already hired personnel through Treasure Island Homeless Development Initiative to work at the facility and will continue to do so. TIE has developed a positive relationship with the San Francisco Sailing Center, and is hopeful that they can work with the Sailing Center to promote and expand sailing opportunities to disadvantaged San Franciscans and support the efforts of the U.S. Olympic Sailing Team.

TIE is currently in the process of repairing the existing marina, and it is anticipated that the repairs will be completed by the end of December 1999.

VI. DESIGN REVIEW

The Authority's review of the PDC does not constitute final design review of the Project. Among other things, the Project will be subject to at least the following additional public hearings:

- As contemplated under the ENA, the Authority will have the opportunity to review and comment on a Term Sheet for the Project. Any revisions to the PDC that arise from such negotiations would also be presented at that time.

- The Authority and the Board of Supervisors must separately approve the final transaction documents for the Project, including a long-term Ground Lease and Disposition and Development Agreement ("DDA"). The DDA will deal with, among other things, site assembly and delivery, the scope of development, the schedule for performance and the financing plan for construction of the Project and any necessary infrastructure improvements. The DDA will incorporate a specific Scope of Development (with schematic designs) describing the proposed improvements to the Marina and surrounding area, and a construction schedule. Thus, through their approval of the DDA, both the Authority and the Board of Supervisors will have the opportunity to approve the final development concept for the Marina.

- Furthermore, the Authority and the Planning Commission will be required to separately approve and adopt a Sub-Area Specific Plan for the Project prior to the commencement of any new development by TIE. Among other things, the Sub-Area Specific Plan will establish the zoning and basic design guidelines for construction of the Project, such as set backs, floor area ratios, circulation and parking, and design of public areas.

In addition to the formal review process noted above, as the final development concept becomes more refined, Staff recommends that TIE participate in two (2) public workshops, one on Treasure Island and the other in San Francisco. Both workshops would take place after work hours, and would occur in handicapped accessible locations.

The presentation of the PDC by TIE is intended to provide the Authority with an update on the progress of the marina negotiations. In addition, comments from the Authority will aid in refining the development concept and future negotiations related to the development of a term sheet.

EXHIBITS A-1 & A-2: PROPOSED MARINA BOUNDARIES

Exhibit A-1

Proposed Marina Boundaries

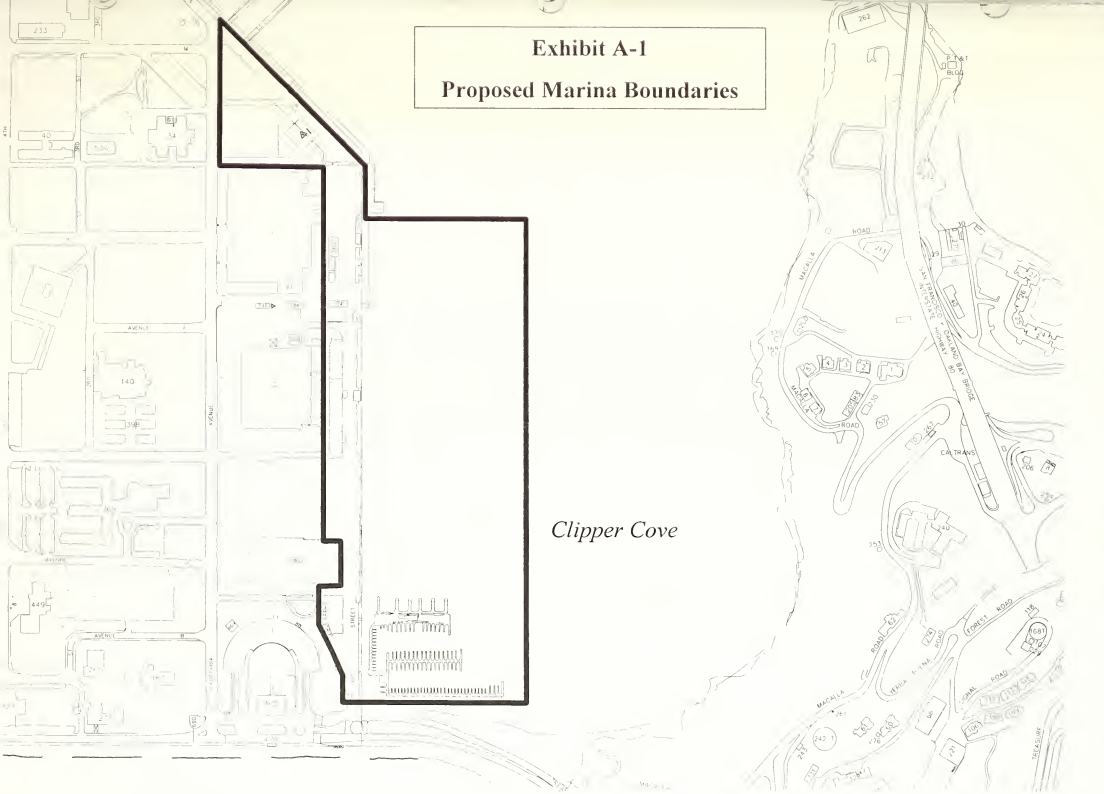


Exhibit A- 2

Proposed Location for Dry-Stack Storage

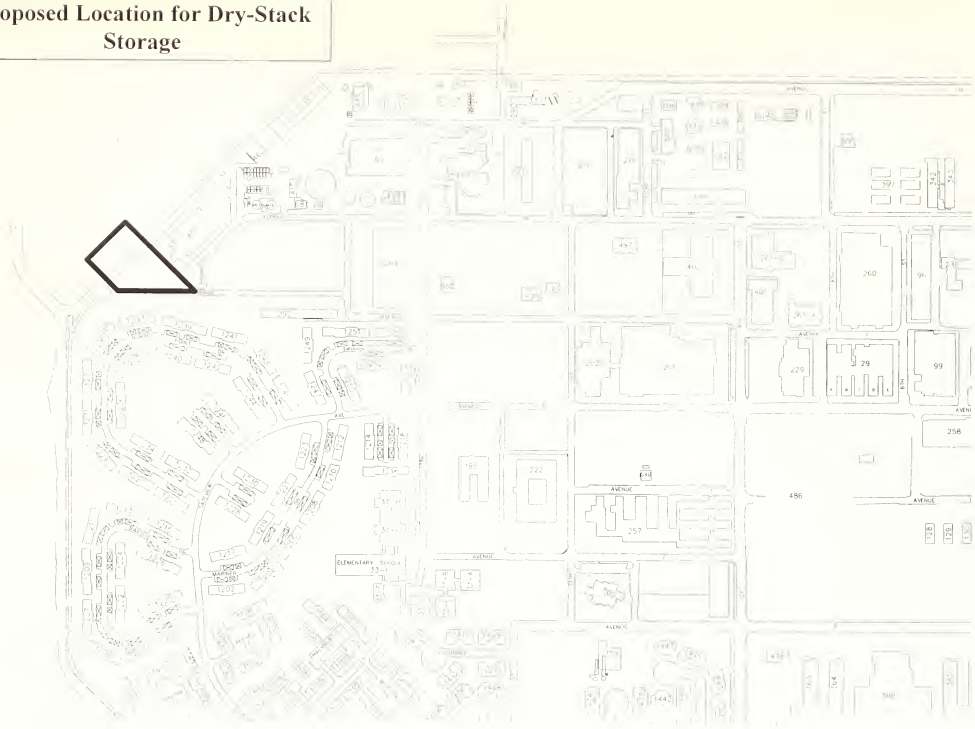
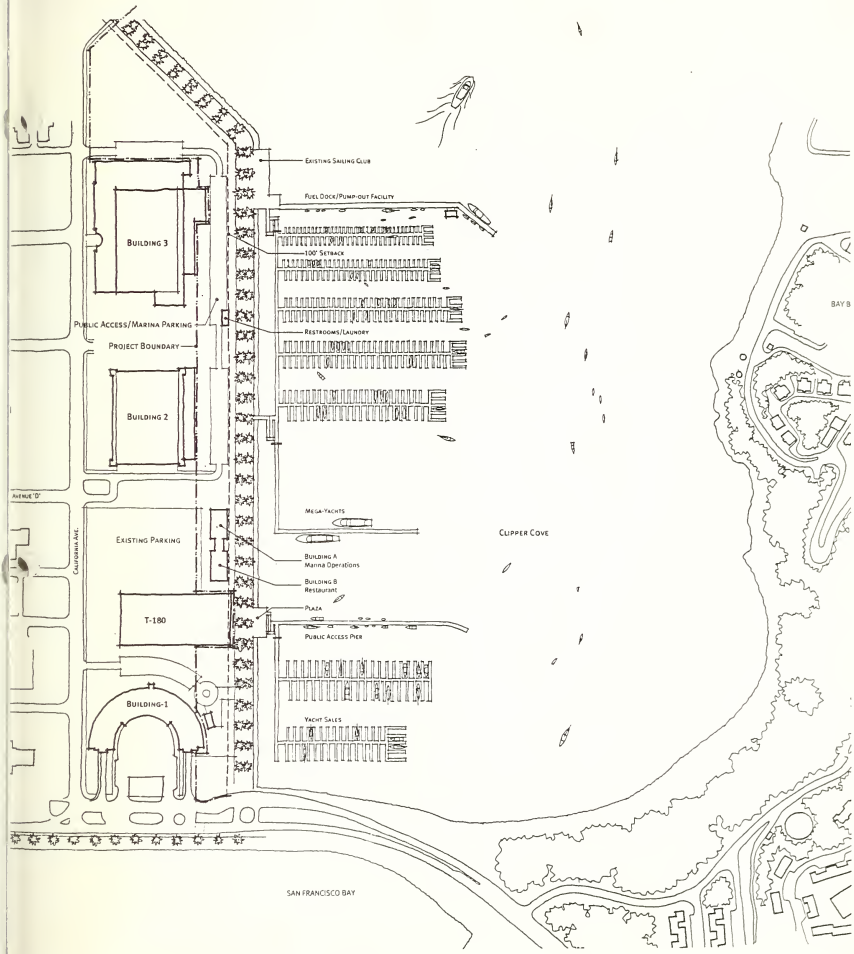


Exhibit B: Marina Development Policies

The following are a series of policies that were drafted by the Planning Department staff, in part on policies included in the Draft Reuse Plan, in March 1998 to evaluate the marina proposals.

- *There must be no new buildings and no public parking or through streets within 100 feet of the shore.*
- *On the water, no more that 1/2 of the distance between Treasure Island and Yerba Buena Island should be used for marina development, including slips and mooring areas.*
- *Protect the environmentally sensitive mud flats at the western end of the cove.*
- *The area between Building 1 and the shore should not contain parking but rather a public plaza or gardens taking advantage of views of both the cove and the City.*
- *Retain Avenue D, extend it to the cove and provide an inviting view terminus.*
- *Use by the marina of the Chapel and other inland buildings should take advantage of the views and respect the religious diversity of the community.*
- *The seismic safety policies in the Reuse Plan must be observed.*
- *Consider adopting a hiring preference for local citizens and other programs that enhance local employment.*
- *Provide a sizeable pier reasonably central to the marina's center of activity open to the public, accessed by a sizeable amount of open water.*
- *Larger boats should be berthed toward the eastern end of the marina.*
- *Minimize vehicle parking.*
- *Major new Buildings should respect the significant existing buildings proposed to remain (i.e., Buildings 1 & 2).*
- *Self-service ramps for vehicle-assisted launching of boats on trailers should not be provided.*
- *Accommodate manually launched and other light, non-motorized craft, such as kayaks, canoes and beginner's wind surf boards.*
- *Provide ample and convenient marine fuel facilities.*

Exhibit C: Preliminary Development Concepts



Treasure Island Enterprise

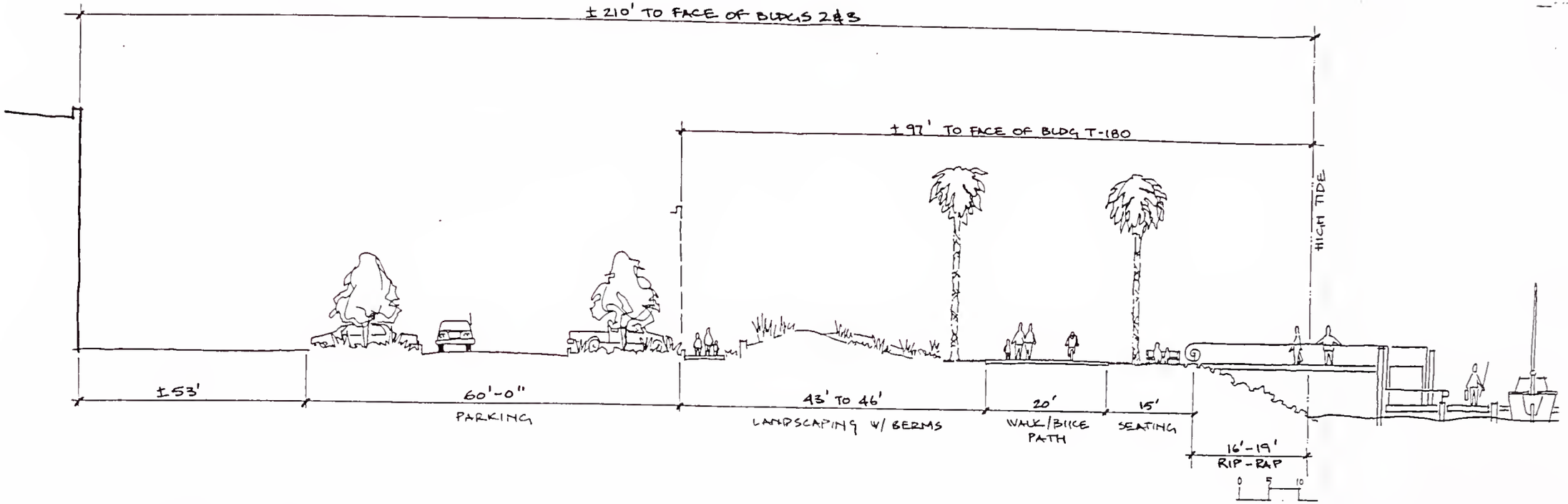
Treasure Island Marina

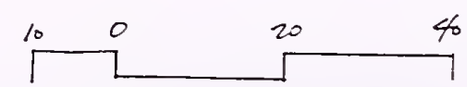
Option A

Nov, 4 1999 Kwan Henmi Architects

0 60 120 240 360

Exhibit D: Shoreline Promenade Design Concepts



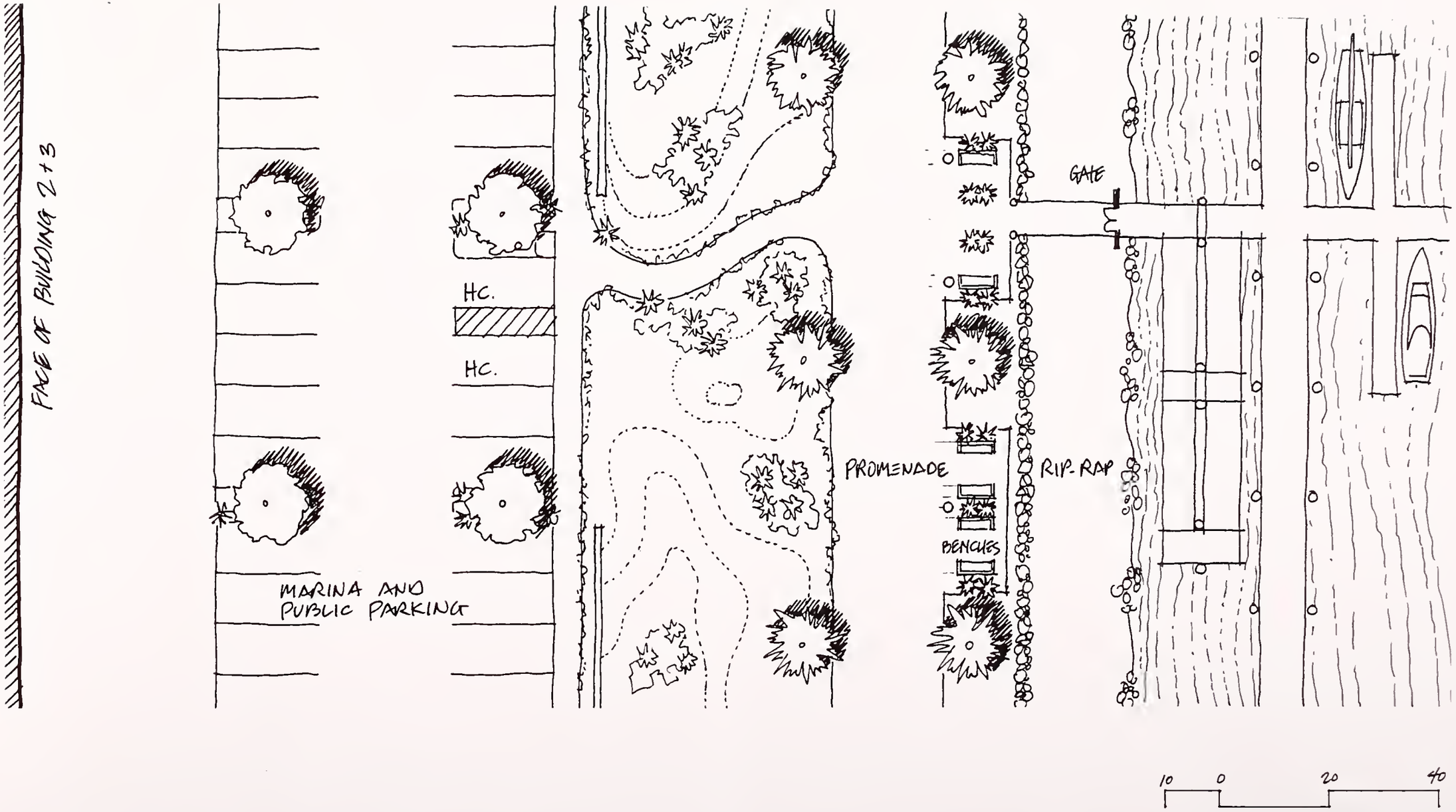


TREASURE ISLAND ENTERPRISE

TREASURE ISLAND MARINA

OPTION A - SITE SECTION.

NOV. 4 1999 KWAN HENMI ARCHITECTS

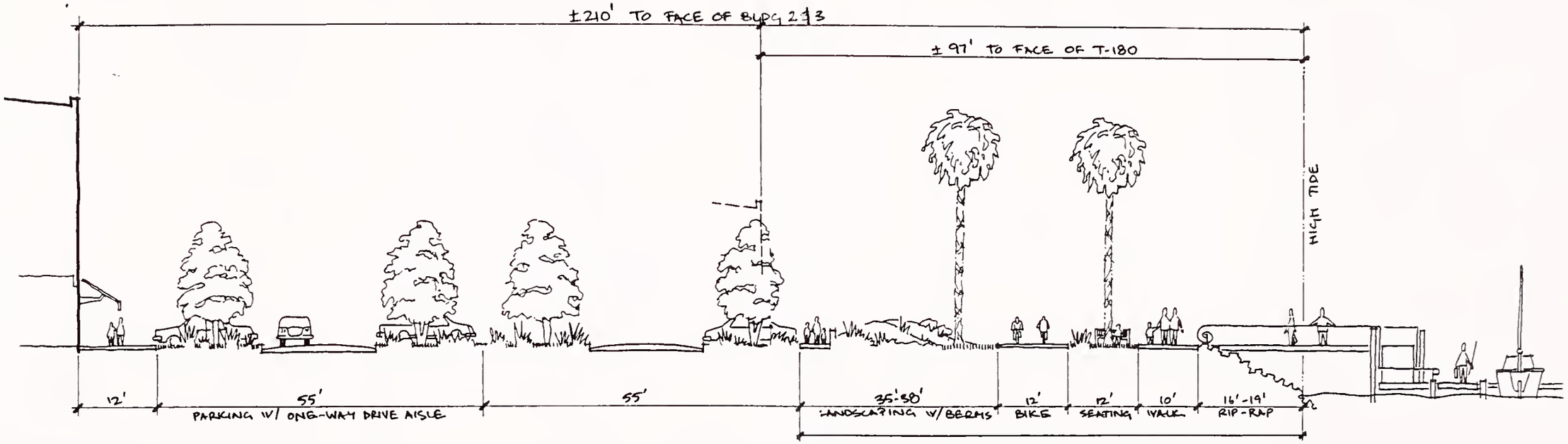


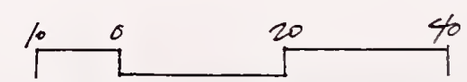
TREASURE ISLAND ENTERPRISE

TREASURE ISLAND MARINA

ENLARGED PLAN - OPTION A

NOV. 4 1999 KWAN HENMI ARCHITECTS





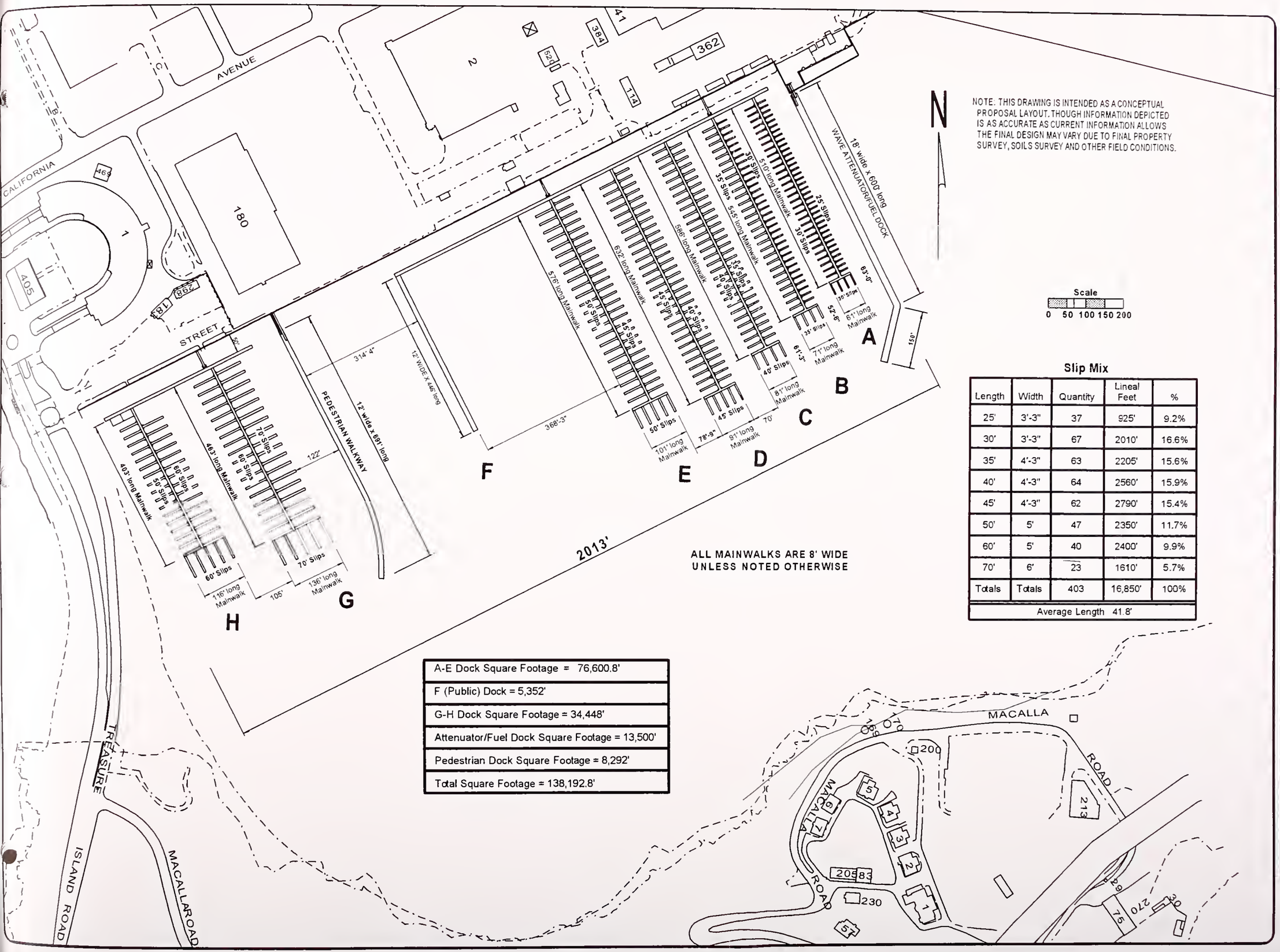
Nov. 4 1999 Kwan Henmi Architects

Treasure Island Enterprise

Treasure Island Marina

OPTION B - SITE SECTION.

Exhibit E: Proposed Marina Configuration and Design



Slip Mix

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Pedestrian Dock Square Footage = 8,292'
Total Square Footage = 138,192.8'

Bellingham

Innovative harbor and waterfront solutions

UNIFLOAT®

Precision engineered floatation systems

Treasure Island Marina

San Francisco, CA

Overall Layout #2

Revisions:

Drawn by: M.A.P.
Scale: N.T.S.
Date: 11-3-99
Sheet 2 Of

Filename: TREASISLMARINA2.CAD

Proposal Layout

Notes

AGENDA ITEM
Treasure Island Development Authority
City and County of San Francisco

Subject: Resolution Authorizing the Executive Director to enter into a Sublease With the San Francisco Sailing Center

Agenda Item:10
Meeting Date: November 10, 1999

Contact Person/Phone: Stephen Proud
(415) 274-0342

Marianne Conarroe
(415) 274-0660

SUMMARY OF PROPOSED ACTION:

Staff is requesting the Authority adopt a resolution which would allow the Executive Director to enter into a sublease with the San Francisco Sailing Center for the Piers 11 & 12 and adjacent areas.

BACKGROUND

On March 1, 1999, the Treasure Island Project Office issued a six-month use permit with the San Francisco Sailing Center ("SFSC") for the purpose of (i) hosting the United States Olympic Sailing Pre-Trials in April and June 1999 at Pier 12 on Treasure Island's south waterfront area, and (ii) providing basic boat maintenance and youth sailing instruction for designated members of Delancey Street's Life Learning Academy.

On August 18, 1999, the Authority authorized a three-month extension of the use permit to allow the SFSC and Treasure Island Enterprises (the entity selected to develop the marina at Treasure Island) an opportunity to discuss and negotiate a shared use agreement for the Sailing Center facility. This shared use agreement would allow TIE access to the facility to support interim operation of the marina, specifically the launching of dry-stacked boats. SFSC would continue to use the facility to support the Olympic Sailing program and to provide sailing programs to the underprivileged youth groups.

Both the SFSC and TIE have informed staff that they have reached a tentative agreement on the terms under which the facility will be shared. Based on that agreement staff has negotiated a sublease with the SFSC. The following outlines the basic terms for the proposed sublease:

- *Premises:* The premises for the proposed sublease include three distinct areas, as shown on the attached map and described as follows:

- ✓ Approximately 15,000 square feet of surface area with three small wood-framed structures (commonly referred to as Piers 11 & 12);
- ✓ Approximately 2,500 square feet of water surface area located immediately adjacent to Piers 11& 12; and
- ✓ Paved surface area located to the north of, and immediately adjacent to Piers 11 & 12 (approximately 15,000 square feet).

- *Permitted Use:* Consistent with the Use Permit issued for the same facility, the proposed uses are limited to:
  - ✓ Shared use of the facility with Treasure Island Enterprises for the launching of boats stored in a separate dry storage facility;
  - ✓ The hosting of sailing competitions and training related to the Olympic Sailing Trials;
  - ✓ The operation of a program(s) to teach sailing to underprivileged youth groups in San Francisco; and
  - ✓ Limited storage of boats to support the operation and activities of the sailing center.

- *Term:* The term of the proposed sublease is for two years. The lease would be effective November 1st, 1999 and would expire on October 31st, 2001. The Authority would use good faith efforts to negotiate prior to the expiration of the two-year term of the proposed sublease, a long-term agreement that is compatible with the development of the marina.

- *Rent:* Monthly rent for the facilities identified above is $2,500. The rent does not include the costs of utilities or Navy CAM charge, which must be paid by the SFSC.

- *Security Deposit:* An amount equal to two months rent ($5,000) is required as a security deposit for the facility.

- *Improvements:* Any improvements required by Department of Building Inspection (including corrections for seismic safety) would be the responsibility of the SFSC. The Authority will grant a rent credit to offset some or all of the costs associated with making the improvements, or may elect to alter the premises described herein.

  In addition to the improvements required to correct code deficiencies, the SFSC may make additional improvements to the facility, subject to the approval of the Authority, which will not be reasonably withheld. Any permits or other authorization required to make such improvements will be the responsibility of the SFSC.

  The SFSC will be required to maintain the facility in good working order at its cost and the Authority will not be required to make any repairs

Premises Map for

San Francisco Sailing Center

[Sublease for San Francisco Sailing Center]

APPROVING AND AUTHORIZING THE TREASURE ISLAND DEVELOPMENT AUTHORITY TO EXECUTE A SUBLEASE WITH THE SAN FRANCISCO SAILING CENTER FOUNDATION FOR PIERS 11 & 12 AND ADJACENT AREAS.

WHEREAS, On May 2, 1997, the Board of Supervisors (the "Board") passed Resolution No. 380-97, authorizing the Mayor's Treasure Island Project Office to establish a nonprofit public benefit corporation known as the Treasure Island Development Authority (the "Authority") to act as a single entity focused on the planning, redevelopment, reconstruction, rehabilitation, reuse and conversion of former Naval Station Treasure Island (the "Base") for the public interest, convenience, welfare and common benefit of the inhabitants of the City and County of San Francisco; and,

WHEREAS, Under the Treasure Island Conversion Act of 1997, which amended Section 33492.5 of the California Health and Safety Code and added Section 2.1 to Chapter 1333 of the Statutes of 1968 (the "Act"), the California legislature (i) designated the Authority as a redevelopment agency under California redevelopment law with authority over the Base upon approval of the City's Board of Supervisors, and, (ii) with respect to those portions of the Base which are subject to the Tidelands Trust, vested in the Authority the authority to administer the public trust for commerce, navigation and fisheries as to such property; and,

WHEREAS, The Tidelands Trust prohibits the sale of trust property into private ownership, generally requires that Tidelands Trust property be accessible to the public and encourages public-oriented uses of trust property that, among other things, attract people to the waterfront, promote public recreation, protect habitat and preserve open space; and,

WHEREAS, In order to facilitate productive reuse and job creation on the Base, it may be beneficial for the Authority to lease or license property from the Navy and, in turn, sublease or sublicense such property to third-parties or use such property for municipal purposes; and,

WHEREAS, At its August 18, 1999 meeting, the Authority approved a resolution authorizing an extension of a use permit issued to the San Francisco Sailing Center to allow the Sailing center to negotiate a shared use agreement with Treasure Island Enterprises for the use of the facilities; and

WHEREAS, the San Francisco Sailing Center Foundation and Treasure Island Enterprises have reached an agreement on the shared use of the facility; and

WHEREAS, the shared use requires that the Authority enter into a sublease with the San Francisco Sailing Center Foundation ("Subtenant") for the use of Piers 11 & 12 and adjacent space on Treasure Island (the "Premises"); and,

WHEREAS, the Authority staff and Subtenant have negotiated the terms and conditions of a sublease for a maximum term of two years substantially in the form attached hereto as Exhibit A (the "Sublease"); and,

WHEREAS, Rent for the Premises has been negotiated in the amount of $2,500 per month which may be offset by costs associated with improving the facility to meet health and safety standards set forth by the Department of Building Inspection; and

WHEREAS, Under the Sublease, Subtenant is granted the right to use the Premises for the hosting of sailing competitions and training related to the Olympic Sailing Trials; the operation of sailing programs to teach sailing to underprivileged youth groups in San Francisco; to store boats to support the operation and activities of the sailing center; and to provide use of the facilities to Treasure Island Enterprises for the launching of boats in dry-stack storage; Now, therefore, be it

RESOLVED, That the Authority hereby approves and authorizes the Executive Director to enter into the Sublease with Subtenant; and, be it

FURTHER RESOLVED, That the Authority authorizes the Executive Director to enter into modifications to the Sublease (including, without limitation, the attachment or modification

of exhibits) that are in the best interests of the Authority and the City, do not materially change the terms of the Sublease, and are necessary and advisable to effectuate the purpose and intent of this resolution.

CERTIFICATE OF SECRETARY

I hereby certify that I am the duly elected and acting Secretary of the Treasure Island Development Authority, a California nonprofit public benefit corporation, and that the above Resolution was duly adopted and approved by the Board of Directors of the Authority at a properly noticed meeting on November 10, 1999.

_____

John Elberling, Secretary

EXHIBIT A

Sublease

Draft: 10/31/99

INTERIM SUBLEASE

between

THE TREASURE ISLAND DEVELOPMENT AUTHORITY

as Sublandlord

and

SAN FRANCISCO SAILING CENTER
as Subtenant

For the Interim Sublease of

Piers 11 and 12 and other space at former Naval Station Treasure Island
San Francisco, California

November 1, 1999

Draft: 10/31/99

TREASURE ISLAND SUBLEASE

Table of Contents

Draft: 10/31/99

LIST OF EXHIBITS:

EXHIBIT A -- Master Lease
EXHIBITS B-1 and B-2 -- Drawing of Premises
EXHIBIT C -- ENA
EXHIBIT D -- Seismic Report
EXHIBIT E -- Required Improvements
EXHIBIT F -- Utilities
EXHIBIT G - Waiting List

TREASURE ISLAND SUBLEASE

THIS SUBLEASE (the "Sublease"), dated as of November 1, 1999, is by and between the Treasure Island Development Authority ("Sublandlord") and the San Francisco Sailing Center Foundation, a California nonprofit public benefit corporation ("Subtenant"). From time to time, Sublandlord and Subtenant together shall be referred to herein as the "Parties".

This Sublease is made with reference to the following facts and circumstances:

A. The United States of America, acting by and through the Department of Navy ("Master Landlord") and Sublandlord entered into a South Waterfront Lease dated September 5, 1998 (the "South Waterfront Lease") for certain portions of that property commonly known as former Naval Station Treasure Island (the "Property"). The South Waterfront Lease is attached hereto as Exhibits A and is referred to herein as the "Master Lease". Under the Master Lease, the Master Landlord leased to Sublandlord, among other things, that property commonly known as Pier 11 and Pier 12 consisting of (a) approximately 15,000 square feet of surface area with three small wood-framed structures located thereon, (b) approximately 2,500 square feet of water surface area located at Piers 11 and 12, and (c) approximately 15,000 square feet of paved surface area (collectively referred to as the "Premises") all as depicted in Exhibit B, attached hereto and incorporated herein.

B. On March 1, 1999, the Sublandlord and Subtenant entered into a Use Permit whereby Sublandlord granted to Subtenant a nonexclusive license to enter and use the Premises in accordance with the terms and conditions set forth in such Use Permit, and Subtenant has requested that Sublandlord lease the Premises to Subtenant for a term of two (2) years.

C. On November ____, 1999, the Board of Directors of Sublandlord adopted Resolution No. _____ authorizing the Executive Director of Sublandlord to enter into a sublease of the Premises as set forth hereinbelow.

NOW THEREFORE, Sublandlord and Subtenant hereby agree as follows:

1. PREMISES

1.1. Subleased Premises. Subject to the terms, covenants and conditions of this Sublease, Sublandlord subleases to Subtenant the Premises, including the improvements thereon.

1.2. As Is Condition of Premises.

(a) Inspection of Premises. Subtenant represents and warrants that Subtenant has conducted a thorough and diligent inspection and investigation, either independently or through its officers, directors, employees, agents, affiliates, subsidiaries, licensees and contractors , and their respective heirs, legal representatives, successors and

assigns, and each of them, ("Subtenant's Agents") of the Premises and the suitability of the Premises for Subtenant's intended use. Subtenant is fully aware of the needs of its operations and has determined, based solely on its own investigation, that the Premises are useable for its operations and intended uses. As part of its inspection of the Premises, Subtenant acknowledges its receipt and review of the Seismic Report referenced in Section 1.2(c) below and the Joint Inspection Report referenced in Section 6 of the Master Lease.

(b) **As Is; Disclaimer of Representations**. Subtenant acknowledges and agrees that the Premises are being subleased and accepted in their "AS IS, WITH ALL FAULTS" condition, without representation or warranty of any kind, and subject to all applicable laws, statutes, ordinances, resolutions, regulations, proclamations, orders or decrees of any municipal, county, state or federal government or other governmental or regulatory authority with jurisdiction over the Premises, or any portion thereof, whether currently in effect or adopted in the future and whether or not in the contemplation of the Parties, including without limitation the orders and citations of any regulatory authority with jurisdiction over life and safety issues concerning the Premises governing the use, occupancy, management, operation and possession of the Premises (together, "Laws"). Without limiting the foregoing, this Sublease is made subject to any and all covenants, conditions, restrictions, easements and other title matters affecting the Premises, or any portion thereof, whether or not of record. Subtenant acknowledges and agrees that neither Sublandlord nor any of its officers, directors, employees, agents, affiliates, subsidiaries, licensees and contractors , and their respective heirs, legal representatives, successors and assigns ("Sublandlord's Agents") have made, and Sublandlord hereby disclaims, any representations or warranties, express or implied, concerning (i) title or survey matters affecting the Premises, (ii) the physical, geological, seismological or environmental condition of the Premises, including, without limitation, the matters described in the Seismic Report (as defined below) (iii) the quality, nature or adequacy of any utilities serving the Premises, (iv) the feasibility, cost or legality of constructing any Alterations on the Premises if required for Subtenant's use and permitted under this Sublease, (v) the safety of the Premises, whether for the use of Subtenant or any other person, including Subtenant's Agents or Subtenant's clients, customers, vendors, invitees, guests, members, licensees, assignees or sub-subtenants ("Subtenant's Invitees"), or (vi) any other matter whatsoever relating to the Premises or their use, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose.

Notwithstanding the foregoing, Sublandlord warrants its authority to enter into this Sublease.

(c) **Seismic Report and Structural Report.** Without limiting Section 1.2 (b) above, Subtenant expressly acknowledges for itself and Subtenant's Agents that it received and read that certain report dated August 1995, entitled "*Treasure Island Reuse Plan: Physical Characteristics, Building and Infrastructure Conditions,*" prepared for the Office of Military Base Conversion, Department of City Planning, and the Redevelopment Agency of the City and County of San Francisco, (the "Seismic Report"), a copy of the cover page of which is attached hereto as Exhibit D. Subtenant has had an adequate opportunity to review the Seismic Report with expert consultants of its own choosing. The Seismic Report, among other matters, describes the conditions of the soils and points out that in the area of the Property where the Premises are

located, an earthquake of magnitude 7 or greater is likely to cause the ground under and around the Premises to spread laterally to a distance of ten (10) or more feet and/or result in other risks. In that event, there is a significant risk that structures or improvements located on or about the Premises, may fail structurally and collapse.

2. COMPLIANCE WITH MASTER LEASE

2.1. Compliance with Master Lease. Subtenant shall not do or permit to be done anything which would constitute a violation or a breach of any of the terms, conditions or provisions of the Master Lease or which would cause the Master Lease to be terminated or forfeited by virtue of any rights of termination reserved by or vested in the Master Landlord. Sublandlord acknowledges that Subtenant's activities permitted hereunder do not violate the terms of the Master Lease.

2.2. Automatic Termination. If the Master Lease terminates for any reason whatsoever, this Sublease shall automatically terminate and the Parties shall thereafter be relieved from all liabilities and obligations under this Sublease, except for liabilities and obligations which expressly survive termination of this Sublease. Subtenant acknowledges and agrees that it has reviewed the Master Lease, is aware of the circumstances upon which the Master Lease may be terminated and hereby assumes all risks associated with the automatic termination of this Sublease because of the termination of the Master Lease. The parties hereby acknowledge that the Master Lease is currently scheduled to terminate on September 5, 2000. Sublandlord hereby covenants to use good faith efforts to seek an extension of the Master Lease or other acquisition of the Premises from Master Landlord to enable the parties to complete the Term of this Sublease. Sublandlord further covenants to use good faith efforts to obtain Master Landlord's consent to this Sublease.

3. TERM

3.1. Term of Sublease. The Premises are subleased for a term (the "Term") commencing on November 1, 1999 or the Effective Date, whichever is later, (the "Commencement Date") and expiring on October 31, 2001.

3.2. Effective Date. This Sublease shall become effective on the date (the "Effective Date") upon which (i) the Parties hereto have duly executed and delivered this Sublease and (ii) Sublandlord's Board of Directors has approved this Sublease.

4. RENT

4.1. Base Rent. Throughout the Term, beginning on the Commencement Date, Subtenant shall pay Sublandlord "Base Rent" equal to Two Thousand Five Hundred dollars ($2,500.00) per month. Base Rent shall be paid to the Sublandlord without prior demand and without any deduction, setoff, or counterclaim whatsoever other than the Improvement Allowance described in Section 4.2 below. If the Commencement Date occurs on a date other than the first day of a calendar month, or the Sublease terminates on a day other than the last day

of a calendar month, then the monthly payment of Base Rent for such fractional month shall be prorated based on a thirty (30) day month.

4.2. Improvement Allowance. Subtenant shall be entitled to offset against its obligation to pay Base Rent an amount equal to Subtenant's actual costs of constructing the Required Improvements (as defined in Section 7.1 below), provided however in no event shall the amount of such offset exceed $60,000.00 (the "Improvement Allowance"). The verified amount of the Improvement Allowance shall be amortized over 24 months so that the amount of the offset against Base Rent for any given month shall not exceed $2,500.00. Regardless of whether or not the Term of this Sublease is of sufficient length for Subtenant to fully off-set the Improvement Allowance against Base Rent, in no event shall Sublandlord be obligated to reimburse Subtenant for such Improvement Allowance (other than as an off-set against Base Rent) or extend the Term of this Sublease, and Subtenant shall solely bear the risk thereof.

(a) In order to determine the final amount of the Improvement Allowance, Subtenant shall provide Sublandlord with copies of (i) all invoices received by Subtenant in connection with the construction of the Required Improvements, (ii) satisfactory evidence of payment of such invoices, including unconditional lien waivers, if the work is subject to mechanics' liens or if such invoices have not been paid, conditional lien waivers, if applicable, all such lien waivers being in the form prescribed by California Civil Code Section 3262, if applicable, and (iii) such additional supporting data substantiating the costs of the Required Improvements as Sublandlord may reasonably require, such as copies of requisitions from subcontractors and material suppliers.

4.3. Additional Charges. In addition to Base Rent, Subtenant shall pay any and all costs, impositions and expenses, or charges otherwise payable by Subtenant to Sublandlord hereunder, including, without limitation, the common area maintenance charge assessed by the Master Landlord against the Premises in the amount not to exceed $_____ per month (the "Navy CAM Charge"), all late charges and default interest and all utility charges (as set forth in Section 8.2 below) (together, the "Additional Charges"). The Additional Charges shall be payable without set-off or counterclaim, including, without limitation, the off-set for the Improvement Allowance described in Section 4.2 above. Within the time period that Subtenant submits Subtenant's Annual Review, as provided in Section 4.6(c) below, Sublandlord shall provide Subtenant a written summary of all Additional Charges actually incurred for the period covered by Subtenant's Annual Review. To the extent the Navy CAM Charge or any other Additional Charges has been overpaid in any Sublease year, then Subtenant shall receive a credit against the next installment due of Base Rent or Additional Charges, and to the extent that Navy CAM Charge or any other Additional Charges has been underpaid, Subtenant shall pay the additional amount due within 30 days of such annual reconciliation. Together, Base Rent and the Additional Charges shall hereinafter be referred to as the "Rent".

4.4. Late Charge. If Subtenant fails to pay any Rent within ten (10) days after the date the same is due and payable, such unpaid amount will be subject to a late payment charge equal to six percent (6%) of the unpaid amount in each instance. The late payment charge has been agreed upon by Sublandlord and Subtenant, after negotiation, as a reasonable estimate of the additional administrative costs and detriment that Sublandlord will incur as a result of any

such failure by Subtenant, the actual costs thereof being extremely difficult if not impossible to determine. The late payment charge constitutes liquidated damages to compensate Sublandlord for its damages resulting from such failure to pay and Subtenant shall promptly pay such charge to Sublandlord together with such unpaid amount.

4.5. **Default Interest**. If any Rent is not paid within thirty (30) days following the due date, such unpaid amount shall bear interest from such date until paid at the rate of ten percent (10%) per year. However, interest shall not be payable on late charges incurred by Subtenant nor on any amounts on which late charges are paid by Subtenant to the extent this interest would cause the total interest to be in excess of that which an individual is lawfully permitted to charge. Payment of interest shall not excuse or cure any default by Subtenant.

4.6. **BOOKS, RECORDS AND REPORTS**

(a) **Books and Records**. Subtenant shall establish and maintain books, records and systems of account reflecting all business operations of Subtenant transacted under this Sublease (the "Books and Records"). Subtenant shall maintain such Books and Records at a reasonably accessible location within California.

(b) **Periodic Audits and Inspections of Records**. After providing Subtenant with 72 hours prior written notice and only during regular business hours, the Sublandlord, its representatives or an independent auditor may audit, examine and make excerpts, copies and transcripts from the Books and Records. The Sublandlord may perform such audit at any time and from time to time during the Term or for a period of three (3) years thereafter. The costs of any periodic audit shall be paid by the Sublandlord.

(c) **Transfer of Records and Accounts**. In the event of termination of this Sublease, Subtenant shall deliver copies of all Books and Records reasonably requested by the Sublandlord to Sublandlord within ten (10) days of such request.

5. TAXES, ASSESSMENTS AND OTHER EXPENSES

5.1. **Taxes and Assessments, Licenses, Permit Fees and Liens.**

(a) **Payment Responsibility**. During the Term of this Sublease, Subtenant shall pay any and all real and personal property taxes, including, but not limited to, possessory interest taxes, general and special assessments, excises, licenses, permit fees and other charges and impositions of every description levied on or assessed against the Premises, any improvements to the Premises (including the Required Improvements, prorated for Subtenant's use of the Premises), Subtenant's personal property, or Subtenant's use of the Premises. Subtenant shall make all such payments directly to the charging authority when due and payable and at least ten (10) days prior to delinquency, subject, however, to Subtenant's right to challenge or protest any of such levies or assessments. Notwithstanding the foregoing, Subtenant shall have the right, at Subtenant's sole cost and expense, to contest the validity of any tax, assessment, excess, license, permit fee or other charge or imposition provided that (i) Subtenant gives Sublandlord written notice of Subtenant's intention to do so at least 10 days prior to

delinquency, (ii) Subtenant diligently prosecutes any such contest and at all times effectually stays or prevents any official or judicial foreclosure of the Sublease, and (iii) Subtenant pays any final judgments forcing any such tax, assessment, excise, permit fee or charge so contested. Sublandlord shall, if requested, cooperate with Subtenant at any such proceedings at Subtenant's expense. However, with respect to real property taxes and assessments levied on or assessed against the Premises for which Sublandlord receives the tax bill directly from the taxing authority, Subtenant shall reimburse Sublandlord for payment of such sums within twenty (20) days after demand.

(b) **Taxability of Possessory Interest.** Without limiting the foregoing, Subtenant recognizes that this Sublease may create a possessory interest subject to property taxation and that Subtenant may be subject to the payment of property taxes levied on such interest.

(c) **No Foreclosure of Liens**. Subtenant shall not allow or suffer a lien for any taxes payable by Subtenant hereunder to be imposed upon the Premises or upon any equipment or other property located thereon without discharging the same as soon as practicable, and in any event prior to foreclosure thereof.

(d) **Reporting Information**. Subtenant agrees to provide such information as Sublandlord may reasonably request to enable Sublandlord to comply with any possessory interest tax reporting requirements applicable to this Sublease.

(e) **Evidence of Payment**. Subtenant shall, upon Sublandlord's request, furnish to Sublandlord within ten (10) days after the date when any charges are due and payable, official receipts of the appropriate taxing authority or other evidence reasonably satisfactory to Sublandlord, evidencing payment thereof, subject to Subtenant's rights to protest and challenge.

5.2. **Other Expenses**. This is a "triple net" Sublease. Accordingly, except for the Improvement Allowance for the Required Improvements, Subtenant shall be solely responsible for any and all charges, costs and expenses related to its use, occupancy, operation or enjoyment of the Premises or any alterations permitted thereon, including, without limitation, the cost of any utilities (as set forth in Section 8.2 below), repairs, maintenance or services necessary for Subtenant's use.

6. USE; COVENANTS TO PROTECT PREMISES

6.1. **Subtenant's Permitted Use**. Subtenant may use the Premises as a recreational sailing center, with boat launches, including the shared use of the Premises and equipment thereon with the Treasure Island Enterprises, the sublessee of the Treasure Island Marina; limited dry boat storage facilities; the hosting of sailing competitions and training related to the United States Olympic Sailing Trials for the 2000 Olympics to be held at Sydney, Australia; and the operation of a program(s) for teaching sailing to underprivileged youth groups in San Francisco. No sale of tobacco or tobacco-related products or alcohol shall be permitted. Subtenant may not use the Premises, or any portion thereof, for any other purposes.

6.2. **Parking and Other Uses of Parking Area**. Subtenant may allow the parking only of boats and boat trailers and other marina-related vehicles in that portion of the Premises designated as the "Parking Area" on Exhibit B. Such parking in the Parking Area shall be shared with the user or users of Building 3 of the Property.

6.3. **Easements**. This Sublease shall be subject to all outstanding easements and rights-of-way for location of any type of facility over, across, in, and upon the Premises or any portion thereof, and to the right of Master Landlord under the Master Lease to grant such additional easements and rights-of-way over, across, in and upon the Premises as Master Landlord shall determine to be in the public interest ("Additional Easements"), provided that, as provided in Section 29 of the Master Lease, Master Landlord shall use its best efforts to minimize any interference with Subtenant's operations hereunder caused by the granting of any such Additional Easements and the granting of such Additional Easements shall be conditioned on the assumption by the grantee thereof of liability to Subtenant for such damages as Subtenant shall suffer for property destroyed or property rendered unusable on account of the grantee's exercise of its rights thereunder. There is hereby reserved to the holders of such Additional Easements as are presently outstanding or which may hereafter be granted, to any workers officially engaged in the construction, installation, maintenance, operation, repair or replacement of facilities located thereon, and to any federal, state or local official engaged in the official inspection thereof, such reasonable rights of ingress and egress over the Premises as shall be necessary for the performance of their duties with regard to such facilities. Sublandlord is not aware of any Additional Easements or other encumbrances which would interfere with Subtenant's use of the Premises. Provided, however, that if the exercise by Master Landlord of any of such rights shall effectively deprive Subtenant of the use of all or such a significant portion of the Premises as to render the remaining portion of the Premises untenantable or unsuitable for continued use by Subtenant as contemplated under this Sublease for more than thirty (30) days, then Subtenant may terminate this Sublease upon thirty (30) days notice, subject to the surrender provisions of Section 18.2 below. If the Master Landlord exercises any of such rights in a manner and under circumstances where this Sublease is not terminated as set forth above, then Base Rent shall be reduced by an amount that is in the same ratio to the Base Rent as the area of the Premises deprived from Subtenant by Master Landlord bears to the area of the Premises prior to Master Landlord's exercise of its rights.

6.4. **No Interference with Navy Operations**. Subtenant shall not conduct operations, nor make any Alterations (as defined below), that would interfere with or otherwise restrict Master Landlord's operations or environmental clean-up or restoration actions by the Master Landlord, Sublandlord, the Environmental Protection Agency, the State of California or their contractors. Environmental clean-up, restoration or testing activities by these Parties shall take priority over the Subtenant's use of the Premises in the event of any conflict, provided, however, in such event, Master Landlord and Sublandlord shall use their best efforts to minimize any disruption of Subtenant's operation.

6.5. No Unlawful Uses, Nuisances or Waste. Without limiting the foregoing, Subtenant shall not use, occupy or permit the use or occupancy of any of the Premises in any unlawful manner or for any illegal purpose, or permit any offensive, noisy or hazardous use or any waste on or about the Premises. Subtenant shall eliminate any nuisances or hazards caused by Subtenant or its Agents or Invitees on or about the Premises.

7. REQUIRED IMPROVEMENTS

7.1. Required Improvements. Subtenant is required to complete the required improvements as set forth in the Department of Building Inspections Report dated _____, 1999, attached hereto and incorporated herein as Exhibit D (hereafter, the "Required Improvements"). Subtenant shall be responsible for completing the Required Improvements in accordance with the procedures for constructing Alterations contained in Section 7.2 below, as applicable. Subject to events of Force Majuere (as defined below) Subtenant's failure to complete the Required Improvements by March 31, 2000 shall constitute an Event of Default under this Sublease. Subtenant shall further be responsible for obtaining all permits and licenses required in connection with the Required Improvements. Subtenant shall not make any material change to the plans and descriptions of the Required Improvements without first obtaining Sublandlord's written approval.

(a) For purposes of this Sublease, an event of "Force Majuere" shall mean any act, event or condition beyond the control of Subtenant or Subtenant's contractors, which act, event or condition materially affects the ability of the Subtenant to perform its obligations hereunder such as Subtenant's inability to obtain permits and licenses required for such work (notwithstanding Subtenant's best efforts to obtain such permits or licenses), strikes, lockouts, or other labor disturbances, fire, earthquake, flood, hurricane or other natural disaster, acts of God, war, or civil insurrection.

7.2. Conduct of Work. Except as may be reasonably required to maintain or repair the Premises or any improvements thereon or respond to emergencies, Subtenant shall not construct, install, make or permit to be made any alterations, installations or additions ("Alterations") in, to or about the Premises, without Sublandlord's prior written consent in each instance, which consent may given or withheld in Sublandlord's sole and absolute discretion, provided however, that no consent shall be required for the Required Improvements as set forth in Section 7.1 above. All Alterations shall be done at Subtenant's sole expense (i) in strict accordance with plans and specifications approved in advance by Sublandlord in writing, (ii) by duly licensed and bonded contractors or mechanics approved by Sublandlord, (iii) in a good and professional manner, (iv) in strict compliance with all Laws, and (v) subject to all other conditions that Sublandlord may reasonably impose. In no event shall the construction , installation or the making of any Alterations substantially or permanently impair the use or operation of the Property, or any portion thereof, or Sublandlord's or Master Landlord's access thereto. Prior to the commencement of any work on the Premises to construct any permitted Alterations, Subtenant, at its sole expense, shall procure all required permits and approvals and shall promptly upon receipt deliver copies of all such documents to Sublandlord. No material change from the plans and specifications approved by Sublandlord may be made without Sublandlord's prior consent, which consent shall not be unreasonably withheld. Sublandlord and

Sublandlord's Agents shall have the right to inspect the course of such construction at all reasonable times.

7.3. **Ownership of Alterations**. Any Alterations constructed on or affixed to the Premises by or on behalf of Subtenant pursuant to the terms and limitations of Section 7.2 above shall be and remain Subtenant's property during the Term. Upon the termination of this Sublease, Subtenant shall remove any Alterations (other than the Required Improvements) from the Premises in accordance with the provisions of Section 18 hereof if Sublandlord, at its sole option and without limiting any of the provisions of Section 7.2 above, requires as a condition to approval of any such Alterations or consented that such Alterations be removed from the Premises following the expiration or termination of this Sublease.

7.4. **Subtenant's Personal Property**. All furniture, furnishings and articles of movable personal property and equipment installed in the Premises by or for the account of Subtenant that can be removed without structural or other material damage to the Premises (all of which are herein called "Subtenant's Personal Property") shall be and remain the property of Subtenant and may be removed by it subject to the provisions of Section 18 hereof.

8. REPAIRS AND MAINTENANCE

8.1. **Subtenant Responsible for Maintenance and Repair**. Subtenant assumes full and sole responsibility for the condition, operation, repair and maintenance and management of the Premises from and after the Commencement Date. Sublandlord shall not be responsible for the performance of any repairs, changes or Alterations to the Premises, nor shall Sublandlord be liable for any portion of the cost thereof, except for repairs necessitated by Sublandlord's acts or omissions. Subtenant shall make all repairs, interior and exterior, structural as well as non-structural, ordinary as well as extraordinary, foreseen and unforeseen, which may be necessary to maintain the Premises at all times in as good a condition as will exist upon the satisfactory completion of the Required Improvements, and in a reasonably clean, safe, attractive and sanitary condition, excluding existing conditions not to be improved by the Required Improvements, ordinary wear and tear and damage caused by casualty. If any portion of the Premises is damaged by any activities conducted by Subtenant or Subtenant's Agents or Subtenant's Invitees hereunder, Subtenant shall promptly, at its sole cost, repair all such damage and restore the Premises to as good a condition as will exist upon the satisfactory completion of the Required Improvements.

8.2. **Utilities**. Sublandlord shall have no responsibility for providing any utilities and services to the Premises whatsoever. Subtenant shall be responsible for furnishing, at its sole costs, any utilities or services that Subtenant may need for its use of the Premises. Subtenant shall pay all amounts due and owing for such utilities and services directly to and at the rates charged by the providers of such utilities and services.

8.3. **Landscaping**. Subtenant shall maintain the existing landscaping of the Premises, if any, in a good condition.

8.4. <u>No Right to Repair and Deduct</u>. Subtenant expressly waives the benefit of any existing or future Laws or judicial or administrative decision that would otherwise permit Subtenant to make repairs or replacements at Sublandlord's expense, or to terminate this Sublease because of Sublandlord's failure to keep the Premises or any part thereof in good order, condition or repair, or to abate or reduce any of Subtenant's obligations hereunder on account of the Premises or any part thereof being in need of repair or replacement. Without limiting the foregoing, Subtenant expressly waives the provisions of California Civil Code Sections 1932, 1941 and 1942 or any similar Laws with respect to any right of Subtenant to terminate this Sublease and with respect to any obligations of Sublandlord hereunder or and any right of Subtenant to make repairs or replacements and deduct the cost thereof from Rent.

9. LIENS

Subtenant shall keep the Premises free from any liens arising out of any work performed, material furnished or obligations incurred by or for Subtenant. In the event Subtenant does not, within twenty (20) days following the imposition of any such lien, cause the lien to be released of record by payment or posting of a proper bond, Sublandlord shall have in addition to all other remedies provided herein and by law or equity the right, but not the obligation, to cause the same to be released by such means as it shall deem proper, including, but not limited to, payment of the claim giving rise to such lien. All such sums paid by Sublandlord and all expenses it incurs in connection therewith (including, without limitation, reasonable attorneys' fees) shall be payable to Sublandlord as Additional Charges by Subtenant upon demand. Sublandlord shall have the right at all times to post and keep posted on the Premises any notices permitted or required by law or that Sublandlord deems proper for its protection and protection of the Premises from mechanics' and materialmen's liens. Subtenant shall give Sublandlord at least fifteen (15) days' prior written notice of the commencement of any repair or construction on any of the Premises other than the Required Improvements.

10. COMPLIANCE WITH LAWS

10.1. Compliance with Laws. Subtenant shall promptly, at its sole expense, maintain the Premises and Subtenant's use and operations thereon in strict compliance at all times with all present and future Laws, including, without limitation, all Laws relating to health and safety, San Francisco Bay or shoreline use, and disabled accessibility (such as the Americans with Disabilities Act, 42 U.S.C.S. §§ 12101 et seq. and Title 24 of the California Code of Regulations), to the extent applicable whether foreseen or unforeseen, ordinary as well as extraordinary, provided, however, that Subtenant shall not be required to make any Alterations other than Alterations, if any, included in the Required Improvements in order to comply with such Laws unless such Alterations shall be occasioned by the Required Improvements or any other Alterations, or Subtenant's use of the Premises, or any act or omission of Subtenant, its Agents or Invitees. Notwithstanding the foregoing, no occurrence or situation arising during the term, nor any present or future Law, whether foreseen or unforeseen, and however extraordinary, shall give Subtenant any right to seek redress against Sublandlord for failing to comply with any Laws. Subtenant waives any rights now or hereafter conferred upon it by any existing or future Law to compel Sublandlord to make any repairs to comply with any such Laws, on account of any such occurrence or situation.

10.2. Regulatory Approvals.

(a) Responsible Party. Subtenant understands and agrees that Subtenant's use of the Premises and construction of Alterations permitted hereunder (including the Required Improvements) may require authorizations, approvals or permits from governmental regulatory agencies with jurisdiction over the Premises. To the extent such approvals or permits are required, Subtenant shall be solely responsible for obtaining any and all such regulatory approvals. Except in the case of the Required Improvements, Subtenant shall not seek any regulatory approval without first obtaining the written consent of Sublandlord, which consent shall not be unreasonably withheld. Subtenant shall bear all costs associated with applying for, obtaining and maintaining any necessary or appropriate regulatory approval and shall be solely responsible for satisfying any and all conditions imposed by regulatory agencies as part of a regulatory approval. Any fines or penalties levied as a result of Subtenant's failure to comply with the terms and conditions of any regulatory approval shall be timely and promptly paid and discharged by Subtenant, and Sublandlord shall have no liability, monetary or otherwise, for any such fines or penalties. Subtenant shall indemnify, protect, defend and hold harmless forever ("Indemnify") the Sublandlord and the Master Landlord including, but not limited to, all of their respective officers, directors, employees , agents, affiliates, subsidiaries, licensees, contractors, boards, commissions, departments, agencies and other subdivisions and each of the persons acting by, through or under each of them, and their respective heirs, legal representatives, successors and assigns, and each of them (the "Indemnified Parties") against any and all claims, demands, losses, liabilities, damages, liens, injuries, penalties, fines, lawsuits and other proceedings, judgments and awards and costs and expenses, including, without limitation, reasonable attorneys' and consultants' fees and costs ("Losses") arising in connection with Subtenant's failure to obtain or comply with the terms and conditions of any regulatory approval, except to the extent such Losses are caused by Sublandlord's negligence or willful misconduct.

Sublandlord shall reasonably cooperate with Subtenant to the extent such cooperation is necessary for Subtenant to fulfill its obligations under this Section 10.2.

(b) **Authority Acting in Proprietary Capacity.** Subtenant further understands and agrees that Sublandlord is entering into this Sublease in its capacity as a property owner with a proprietary interest in the Premises and not as a regulatory agency with police powers. Nothing in this Sublease shall limit in any way Subtenant's obligation to obtain any required approvals from city officials, departments, boards or commissions having jurisdiction over the Premises. By entering into this Sublease, Sublandlord is in no way modifying or limiting Subtenant's obligation to cause the Premises to be used and occupied in accordance with all applicable laws, as provided further above.

10.3. **Compliance with Sublandlord's Risk Management Requirements**. Subtenant shall not do anything, or permit anything to be done, in or about the Premises or any Alterations permitted hereunder that would create any unusual fire risk, and shall take commercially reasonable steps to protect Sublandlord from any potential premises liability. Subtenant shall faithfully observe, at its expense, any and all reasonable requirements of Sublandlord's Risk Manager with respect thereto and with the requirements of any policies of commercial general, all risk property or other policies of insurance at any time in force with respect to the Premises and any Alterations as required hereunder.

11. ENCUMBRANCES

11.1. **Encumbrance By Subtenant**. Without the prior written consent of Sublandlord, which consent Sublandlord may withhold in Sublandlord's sole and absolute discretion, Subtenant shall not under any circumstances whatsoever create any mortgage, deed of trust, assignment of rents, fixture filing, security agreement, or similar security instrument, or other lien or encumbrance or assignment or pledge of an asset as security in any manner against the Premises or Sublandlord's or Subtenant's interest under this Sublease.

12. DAMAGE OR DESTRUCTION

12.1. **Damage or Destruction to the Premises Covered by Required Insurance.** In the case of damage to or destruction of all or any portion of the Premises that materially adversely affects the intended use of such Premises hereunder ("Damage") that is covered by the insurance required under Section 16 below (the "Required Insurance") this Agreement shall continue and Subtenant shall use the proceeds of any such Required Insurance to, with reasonable promptness and diligence, restore, repair, replace or rebuild those portions of the Premises so Damaged (the "Damaged Premises") to as good a condition, quality and class as the Damaged Premises were in immediately before such casualty ("Repair").

12.2. **Damage or Destruction to the Premises Not Covered by required Insurance.** In the case of Damage to the Premises that is not covered by the Required Insurance, then Subtenant may either (i) terminate this Sublease by giving written notice to Sublandlord of its election to do so within thirty (30) days after the date of the occurrence of such Damage (with the effective date of termination specified in the notice of termination, which date shall not be more

than thirty (30) days from the date of the notice) subject to the surrender provisions of Section 18.2 below, (ii) Repair the Damage at its own cost, or (iii) close such Damage area of the Premises to Subtenant's Invitees (including its licensees) and members of the general public, provided that the closure of such Damage area of the Premises will not materially interfere with the use and operation of the remaining Premises, and provided further that in connection with such closure, Subtenant takes reasonable steps to secure such closed Damage area of the Premises to protect Subtenant's Invitees and the general public from any hazardous condition or attractive nuisance that may exist in such closed Damage area of the Premises. In the event Subtenant elects to Repair Damage to the Premises at its own cost under Section 12.2 (ii) above, the cost of such Repair may be added to the Improvement Allowance with the prior written consent of the Sublandlord.

12.3. **Rental Abatement**. In the event of Damage to the Premises, Subtenant's obligation to pay Base Rent to the Sublandlord shall be proportionately reduced by an amount equal to the result obtained by multiplying the total amount of Base Rent by a fraction, the denominator of which shall be the total amount of land and water surface square footage in the Premises and the numerator of which shall be the amount of land and water surface square footage rendered unusable by the Damage to the Premises (the "Abatement"). The Abatement shall continue until Subtenant completes the Repair, but in no event shall such Abatement continue for more than twelve (12) months after the date of such casualty.

12.4. **Waiver**. The Parties understand and agree that the foregoing provisions of this Section 12 are intended to govern fully the rights and obligations of the Parties in the event of damage or destruction to the Premises or Alterations, and the Sublandlord and Subtenant each hereby waives and releases any right to terminate this Agreement in whole or in part under Sections 1932.2 and 1933.4 of the Civil Code of California or under any similar Laws now or hereafter in effect, to the extent such rights are inconsistent with the provisions hereof.

13. ASSIGNMENT AND SUBLETTING

13.1. **Restriction on Assignment and Subletting**. Subtenant shall not directly or indirectly (including, without limitation, by merger, acquisition or other transfer of any controlling interest in Subtenant), voluntarily or by operation of Law, sell, assign, encumber, pledge or otherwise transfer any part of its interest in or rights with respect to the Premises, any Alterations or its interest in this Sublease, or permit any portion of the Premises to be occupied by anyone other than itself, its agents, employees, members, officers of members or representatives, or sublet any portion of the Premises, without Sublandlord's prior written consent in each instance, which Sublandlord may grant or withhold in its sole and absolute discretion.

14. DEFAULT; REMEDIES

14.1. **Events of Default**. Any of the following shall constitute an event of default ("Event of Default") by Subtenant hereunder:

(a) Rent. Any failure to pay Rent or other sums, including sums due for utilities, within ten (10) days after such sums are due, which is not cured within five (5) days after written notice thereof by Sublandlord.

(b) **Covenants, Conditions and Representations**. Any failure to perform or comply with any other covenant, condition or representation made under this Sublease, provided Subtenant shall have a period of thirty (30) days from the date of written notice from Sublandlord of such failure within which to cure such default under this Sublease, or, if such default is not capable of cure within such 30-day period, Subtenant shall have a reasonable period to complete such cure if Subtenant promptly commences action to cure such default within such 30-day period and thereafter diligently prosecutes the same to completion and uses its best efforts to complete such cure within sixty (60) days after the receipt of notice of default from Sublandlord.

(c) **Vacation or Abandonment**. Any abandonment of the Premises for more than fourteen (14) consecutive days, except in a case where such abandonment is caused by an Event of Force Majeure or by Damage or Destruction, as provided in Section 12 above; and

(d) **Bankruptcy**. Either (i) the filing by the Subtenant of a petition to have the Subtenant or any of its members adjudicated insolvent and unable to pay its debts as they mature or a petition for reorganization or arrangement under any bankruptcy or insolvency law, or a general assignment by the Subtenant or any of its members for the benefit of creditors, or (ii) the filing by or against the Subtenant or any of its members of any action seeking reorganization, arrangement, liquidation, or other relief under any law relating to bankruptcy, insolvency, or reorganization or seeking appointment of a trustee, receiver, or liquidator of the Subtenant or any substantial part of the Subtenant's assets, if such petition is not dismissed within sixty (60) days.

14.2. **Remedies**. Upon the occurrence of an Event of Default by Subtenant, Sublandlord shall have the following rights and remedies in addition to all other rights and remedies available to Sublandlord at Law or in equity:

(a) **Terminate Sublease and Recover Damages**. The rights and remedies provided by law California Civil Code Section 1951.2 (damages on termination for breach), including, but not limited to, the right to terminate Subtenant's right to possession of the Premises and to recover the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of rental loss for the same period that Subtenant proves could be reasonably avoided, as computed pursuant to subsection (b) of such Section 1951.2. Sublandlord's efforts to mitigate the damages caused by Subtenant's breach of this Sublease shall not waive Sublandlord's rights to recover unmitigated damages upon termination.

(b) **Appointment of Receiver**. The right to have a receiver appointed for Subtenant upon application by Sublandlord to take possession of the Premises and to apply any rental collected from the Premises and to exercise all other rights and remedies granted to Sublandlord pursuant to this Sublease.

14.3. **Sublandlord's Right to Cure Subtenant's Defaults**. If Subtenant defaults in the performance of any of its obligations under this Sublease, then Sublandlord may at any time thereafter with five (5) days prior written notice (except in the event of an emergency as determined by Sublandlord where prior notice by Sublandlord is impractical), remedy such Event of Default for Subtenant's account and at Subtenant's expense. Subtenant shall pay to Sublandlord, as Additional Charges, promptly upon demand, all reasonable sums expended by Sublandlord, or other costs, damages, expenses or liabilities incurred by Sublandlord, including, without limitation, reasonable attorneys' fees, in remedying or attempting to remedy such Event of Default. Subtenant's obligations under this Section shall survive the termination of this Sublease. Nothing herein shall imply any duty of Sublandlord to do any act that Subtenant is obligated to perform under any provision of this Sublease, and Sublandlord's cure or attempted cure of Subtenant's Event of Default shall not constitute a waiver of Subtenant's Event of Default or any rights or remedies of Sublandlord on account of such Event of Default.

15. RELEASE AND WAIVER OF CLAIMS; INDEMNIFICATION

15.1. **Release and Waiver of Claims**. Subtenant, on behalf of itself and Subtenant's Agents, covenants and agrees that the Indemnified Parties shall not be responsible for or liable to Subtenant for, and, to the fullest extent allowed by any Laws, Subtenant hereby waives all rights against the Indemnified Parties and releases them from, any and all Losses, including, but not limited to, incidental and consequential damages, relating to any injury, accident or death of any person or loss or damage to any property, in or about the Premises, from any cause whatsoever, including without limitation, partial or complete collapse of the Premises due to an earthquake or subsidence, except only to the extent such Losses are caused by the negligence or willful misconduct of the Indemnified Parties. Without limiting the generality of the foregoing:

(a) Subtenant expressly acknowledges and agrees that the Rent payable hereunder does not take into account any potential liability of the Indemnified Parties for any consequential or incidental damages including, but not limited to, lost profits arising out of disruption to Subtenant's uses hereunder. Sublandlord would not be willing to enter into this Sublease in the absence of a complete waiver of liability for consequential or incidental damages due to the acts or omissions of the Indemnified Parties , and Subtenant expressly assumes the risk with respect thereto. Accordingly, without limiting any indemnification obligations of Subtenant or other waivers contained in this Sublease and as a material part of the consideration for this Sublease, Subtenant fully RELEASES, WAIVES AND DISCHARGES forever any and all claims, demands, rights, and causes of action for consequential and incidental damages and covenants not to sue the Indemnified Parties for such damages arising out of this Sublease or the uses authorized hereunder, including, without limitation, any interference with uses conducted by Subtenant pursuant to this Sublease regardless of the cause, except to the extent such Losses are caused by Sublandlord's negligence or willful misconduct.

(b) Without limiting any indemnification obligations of Subtenant or other waivers contained in this Sublease and as a material part of the consideration for this Sublease, Subtenant fully RELEASES, WAIVES AND DISCHARGES forever any claims for inverse condemnation or the payment of just compensation under the law of eminent domain, or otherwise at equity, in the event that Sublandlord terminates this Sublease because of such claim for inverse condemnation or eminent domain.

(c) As part of Subtenant's agreement to accept the Premises in its "As Is" condition as provided herein, and without limiting such agreement and any other waiver contained herein, Subtenant on behalf of itself and its successors and assigns, waives its right to recover from, and forever RELEASES , WAIVES AND DISCHARGES, the Indemnified Parties from any and all losses, whether direct or indirect, known or unknown, foreseen and unforeseen, that may arise on account of or in any way be connected with the physical or environmental condition of the Premises and any related improvements or any Laws or regulations applicable thereto or the suitability of the Premises for Subtenant's intended use, except to the extent such Losses are caused by the negligence or willful misconduct of the Indemnified Parties.

(d) Subtenant acknowledges that it will not be a displaced person at the time this Sublease is terminated, and Subtenant fully RELEASES, WAIVES AND DISCHARGES, the Indemnified Parties from any and all Losses and any and all claims, demands or rights against any of the Indemnified Parties under any present and future Laws, including, without limitation, any and all claims for relocation benefits or assistance from the Indemnified Parties under federal and state relocation assistance laws.

(e) Subtenant covenants and agrees never to file, commence, prosecute or cause to be filed, commenced or prosecuted against the Indemnified Parties any claim, action or proceeding based upon any claims, demands, causes of action, obligations, damages, losses, costs, expenses or liabilities of any nature whatsoever encompassed by the waivers and releases set forth in this Section 15.1, excepting those arising from the negligence or willful misconduct of the Indemnified Parties.

(f) In executing these waivers and releases, Subtenant has not relied upon any representation or statement other than as expressly set forth herein.

(g) Subtenant has made such investigation of the facts pertaining to these waivers and releases it deems necessary and assumes the risk of mistake with respect to such facts. These waivers and releases are intended to be final and binding on Subtenant regardless of any claims of mistake.

(h) In connection with the foregoing releases, Subtenant acknowledges that it is familiar with Section 1542 of the California Civil Code, which reads:

> **A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.**

Subtenant acknowledges that the releases contained herein includes all known and unknown, disclosed and undisclosed, and anticipated and unanticipated claims. Subtenant realizes and acknowledges that it has agreed upon this Sublease in light of this realization and, being fully aware of this situation, it nevertheless intends to waive the benefit of Civil Code Section 1542, or any statute or other similar law now or later in effect. The waivers and releases contained herein shall survive any termination of this Sublease.

(i) Nothing herein shall limit or otherwise relieve Master Landlord from Master Landlord's obligations under Master Landlord's environmental indemnity described in Section 19.3 below, the Federal Tort Claims Act, or any other applicable laws.

15.2. Subtenant's Indemnity. Except as otherwise provided in Section 19, Subtenant, on behalf of itself and Subtenant's Agents, shall Indemnify the Indemnified Parties from and against any and all Losses, incurred in connection with or arising out of Subtenant's use of the Premises, including, without limitation: (a) any damage to or destruction of any property owned by or in the custody of Subtenant or Subtenant's Agents or Invitees, (b) any accident, injury to or death of a person, including, without limitation, Subtenant's Agents and Invitees, occurring in, on or about the Premises (c) any default by Subtenant in the observation or performance of any of the terms, covenants or conditions of this Sublease to be observed or performed on Subtenant's part; (d) the use, occupancy, conduct or management, or manner of use, occupancy, conduct or management by Subtenant, Subtenant's Agents or Invitees or any person or entity claiming through or under any of them, of the Premises or any Alterations; (e) any construction or other work undertaken by Subtenant on or about the Premises whether before or during the Term of this Sublease; or (f) any acts, omissions or negligence of Subtenant, Subtenant's Agents or Invitees, or of any trespassers, in, on or about the Premises or any Alterations; except to the extent that such Indemnity is void or otherwise unenforceable under any applicable Laws in effect on or validly retroactive to the date of this Sublease and further except only to the extent such losses are caused by the negligence or intentional wrongful acts or omissions of the Indemnified Parties. The foregoing Indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and Sublandlord's costs of investigating any loss. Subtenant specifically acknowledges and agrees that it has an immediate and independent obligation to defend Sublandlord and the other Indemnified Parties from any claim which actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to Subtenant by Sublandlord and continues at all times thereafter. Subtenant's obligations under this Section shall survive the expiration or sooner termination of this Sublease.

16. INSURANCE

16.1. Subtenant's Insurance. Subtenant shall procure and maintain or cause to be procured and maintained throughout the Term of this Sublease and pay the cost thereof the following insurance:

(a) **Property Insurance**. Subtenant shall procure and maintain, at its own cost, a standard fire and extended coverage property insurance policy insuring the Premises,

including, without limitation, all fixtures, Alterations, furniture and equipment located thereon, in an amount not less than the full replacement value of the Premises.

(b) **Public Liability and Other Insurance**. Subtenant shall at all times, at its cost, also maintain insurance for the mutual benefit of Sublandlord and Subtenant against:

(i) Claims for personal injury under a policy of commercial general liability insurance, including without limitation, claims for bodily injury , property damage or employer's liability occurring in or upon the Premises, in an amount not less than $2,000,000 combined single limit. Such insurance shall provide coverage at least as broad as provided under Insurance Service Form Number CG-00-01-11-88.

(ii) Worker's compensation insurance with employer's liability insurance covering all persons employed and with respect to whom death or bodily injury claims could be asserted against Sublandlord, Subtenant, the Premises or any other Sublandlord property, in an amount not less than $1,000,000 each accident.

(iii) Automobile and watercraft liability insurance with limits not less than $1,000,000 each occurrence combined single limit for bodily injury and property damage, including owned and non-owned and hired vehicles, if Subtenant uses automobiles or watercraft in connection with its use of the Premises. Such insurance shall provide coverage at least as broad as provided under Insurance Service Form Number CA-00-01-06-92.

(iv) Marina Operator's legal Liability insurance with limits not less than $2,000,000 each occurrence for bodily injury or property damage arising out of Marina operations with a deductible not to exceed $50,000 per claim.

16.2. **General Requirements**. All insurance provided for under this Sublease shall be effected under valid enforceable policies issued by insurers of recognized responsibility and reasonably approved by Sublandlord.

(a) Should any of the required insurance be provided under a claims-made form, Subtenant shall maintain such coverage continuously throughout the term hereof and, without lapse, for a period of one (1) year beyond the expiration or termination of this Sublease, to the effect that, should occurrences during the Term give rise to claims made after expiration or termination of this Sublease, such claims shall be covered by such claims-made policies.

(b) All liability insurance policies shall be endorsed to provide the following:

(i) Cover Subtenant as the insured and the Sublandlord and the Master Landlord as additional insureds.

(ii) That such policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of this Sublease, and that insurance applies separately to each insured against whom claim is made or suit is brought. Such policies shall also provide for severability of interests and that an act or omission of one of

the named insureds which would void or otherwise reduce coverage shall not reduce or void the coverage as to any insured, and shall afford coverage for all claims based on acts, omissions, injury or damage which occurred or arose (or the onset of which occurred or arose) in whole or in part during the policy period.

(iii) All policies shall be endorsed to provide thirty (30) days' advance written notice to Sublandlord of cancellation, non-renewal or reduction in coverage, mailed to the address(es) for Sublandlord set forth in Section 20.1 below.

16.3. Proof of Insurance. Subtenant shall deliver to Sublandlord certificates of insurance in form and with insurers satisfactory to Sublandlord, evidencing the coverages required hereunder, on or before the Commencement Date, and Subtenant shall provide Sublandlord with certificates thereafter at least thirty (30) days before the expiration dates of expiring policies. As to the insurance required pursuant to Section 16.1(b)(1) above, such certificate shall state, among other things, that such insurance coverage includes and shall cover Subtenant's indemnity obligations under Section 15.2 above. In the event Subtenant shall fail to procure such insurance, or deliver such certificates, Sublandlord may, at its option, procure the same for the account of Subtenant, and the cost thereof shall be paid to Sublandlord within five (5) days after delivery to Subtenant of bills therefor.

16.4. No Limitation on Indemnities. Subtenant's compliance with the provisions of this Section shall in no way relieve or decrease Subtenant's indemnification obligations herein or any of Subtenant's other obligations or liabilities under this Sublease.

16.5. Lapse of Insurance. Notwithstanding anything to the contrary in this Sublease, Sublandlord may elect in Sublandlord's sole and absolute discretion to terminate this Sublease upon the lapse of any required insurance coverage by ten (10) days advance written notice to Subtenant.

16.6. Subtenant's Personal Property. Subtenant shall be responsible, at its expense, for separately insuring Subtenant's Personal Property.

16.7. Waiver of Subrogation. Notwithstanding anything to the contrary contained herein, to the extent permitted by their respective policies of insurance, Sublandlord and Subtenant each hereby waive any right of recovery against the other party and against any other party maintaining a policy of insurance covering the Premises required hereunder and their contents, or any portion thereof, for any loss or damage maintained by such other party with respect to the Premises, or any portion thereof or the contents of the same or any operation therein, whether or not such loss is caused by the fault or negligence of such other party. If any policy of insurance relating to the Premises carried by Subtenant does not permit the foregoing waiver or if the coverage under any such policy would be invalidated due to such waiver, Subtenant shall obtain, if possible, from the insurer under such policy a waiver of all rights of subrogation the insurer might have against Sublandlord or any other party maintaining a policy of insurance covering the same loss, in connection with any claim, loss or damage covered by such policy.

17. ACCESS BY SUBLANDLORD

17.1. Access to Premises by Sublandlord.

(a) General Access. Sublandlord reserves for itself and Sublandlord's Agents, the right to enter the Premises and any portion thereof at all reasonable times upon not less than twenty-four (24) hours oral or written notice to Subtenant (except in the event of an emergency) for any purpose.

(b) Emergency Access. In the event of any emergency, as reasonably determined by Sublandlord, Sublandlord may, at its sole option and without notice, enter the Premises and remain on the Premises throughout the period of such emergency, not to exceed seven (7) days. Sublandlord shall have the right to use any and all means Sublandlord reasonably considers appropriate to gain access to any portion of the Premises in an emergency, and Sublandlord shall have the right to alter or remove any Alterations or Subtenant's Personal Property as Sublandlord reasonably determines is necessary to respond to such emergency. In such case, Sublandlord shall not be responsible for any damage or injury to any such property, nor for the replacement of any such property and any such emergency entry shall not be deemed to be a forcible or unlawful entry onto or a detainer of, the Premises, or an eviction, actual or constructive, of Subtenant from the Premises or any portion thereof.

(c) No Liability. Sublandlord shall not be liable in any manner, and Subtenant hereby waives any claims, for any inconvenience, disturbance, loss of business, nuisance or other damage arising out of Sublandlord's entry onto the Premises, except damage resulting from the negligence or willful misconduct of Sublandlord or Sublandlord's Agents.

17.2. Access to Premises by Master Landlord. Subtenant acknowledges and agrees that Master Landlord shall have all of the rights of access to the Premises described in the Master Lease.

18. SURRENDER

18.1. Surrender of the Premises. Upon the termination of this Sublease, Subtenant shall surrender to Sublandlord the Premises in the same condition as will exist upon the satisfactory completion of the Required Improvements, ordinary wear and tear and damage by casualty excluded, and free and clear of all liens, easements and other encumbrances created or suffered by, through or under Subtenant. On or before any termination hereof, Subtenant shall, at its sole cost, remove any and all of Subtenant's Personal Property from the Premises and demolish and remove any and all Alterations from the Premises (except for the Required Improvements or Alterations that Sublandlord agrees are to remain part of the Premises pursuant to the provisions of Section 7.3 above). In addition, Subtenant shall, at its sole expense, repair any damage to the Premises caused by Subtenant, including, without limitation, damage resulting from the removal of any of Subtenant's Personal Property or Alterations, and restore the Premises to their condition immediately prior to such removal. In connection therewith, Subtenant shall obtain any and all necessary permits and approvals, including, without limitation, any environmental permits, and execute any manifests or other documents necessary to complete

the demolition, removal or restoration work required hereunder. Subtenant's obligations under this Section shall survive the termination of this Sublease. Any items of Subtenant's Personal Property remaining on or about the Premises after the termination of this Sublease may, at Sublandlord's option and after thirty (30) days written notice to Subtenant, be deemed abandoned and in such case Sublandlord may dispose of such property in accordance with Section 1980 et seq. of the California Civil Code or in any other manner allowed by Law.

If Subtenant fails to surrender the Premises to Sublandlord upon the termination of this Sublease as required by this Section, Subtenant shall Indemnify Sublandlord against all Losses resulting therefrom, including, without limitation, Losses made by a succeeding Subtenant resulting from Subtenant's failure to surrender the Premises.

18.2 **Attractive Nuisances.** In addition to the foregoing, if Subtenant terminates this Sublease under Sections 6.3, 8.1 or 12.2 above, Subtenant shall, prior to such termination secure the Premises to reasonably protect or warn any third parties of any dangerous conditions that may exist on the Premises and to protect Sublandlord from attractive nuisance liability.

19. HAZARDOUS MATERIALS

19.1. **No Hazardous Materials**. Subtenant covenants and agrees that, except for normal amounts of hazardous substances and petroleum products commercially used in marina operations, neither Subtenant nor any of Subtenant's Agents or Invitees shall cause or permit any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment, including, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Sections 9601 et seq.) or pursuant to Section 25281 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials other than materials that are part of the structure of any existing improvements on the Premises which is not disturbed by any activity of Subtenant or its Agents or Licensees, or are naturally occurring substances on, in or about the Premises; and petroleum, including crude oil or any fraction thereof, and natural gas or natural gas liquids ("Hazardous Material") to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises or transported to or from the Premises without the prior written approval of Sublandlord, which approval may be withheld in Sublandlord's sole and absolute discretion. Sublandlord may from time to time request Subtenant to provide adequate information for Sublandlord to determine that any Hazardous Material permitted hereunder is being handled in compliance with all applicable federal, state or local Laws or policies relating to Hazardous Material (including, without limitation, its use, handling, transportation, production, disposal, discharge or storage) or to human health and safety, industrial hygiene or environmental conditions in, on, under or about the Premises and any other property, including, without limitation, soil, air and groundwater conditions ("Environmental Laws"), and Subtenant shall promptly provide all such information. Sublandlord and Sublandlord's Agents shall have the right to inspect the Premises for Hazardous Material and compliance with the provisions hereof

at all reasonable times upon reasonable advance oral or written notice to Subtenant (except in the event of an emergency). Without limiting the foregoing, Subtenant acknowledges and agrees that it shall be bound by and will comply with the environmental protection provisions provided for in Section 13 of the Master Lease.

19.2. **Subtenant's Environmental Indemnity**. If Subtenant breaches any of its obligations contained in Section 19.1 above, or, if any act or omission or negligence of Subtenant or any of Subtenant's Agents or Invitees results in any spilling, leaking, pumping, pouring, emitting, discharging, injecting, escaping, leeching or dumping ("Release") of Hazardous Material in, on, under or about the Premises or the Property, without limiting Subtenant's general Indemnity contained in Section 15.2 above, Subtenant, on behalf of itself and Subtenant's Agents, shall Indemnify the Indemnified Parties, and each of them, from and against any and all enforcement, investigation, remediation or other governmental or regulatory actions, agreements or orders threatened, instituted or completed pursuant to any Environmental Laws together with any and all Losses made or threatened by any third party against Sublandlord, Sublandlord's Agents, or the Premises, relating to damage, contribution, cost recovery compensation, loss or injury resulting from the presence, Release or discharge of any Hazardous Materials caused by Subtenant or its Agents or Invitees, including, without limitation, Losses based in common law, investigation and remediation costs, fines, natural resource damages, damages for decrease in value of the Premises, the loss or restriction of the use or any amenity of the Premises and reasonable attorneys' fees and consultants' fees and experts' fees and costs ("Hazardous Materials Claims") arising during or after the Term of this Sublease and relating to such Release caused by Subtenant or its Agents or Invitees. The foregoing indemnity shall not include Losses arising as a result of pre-existing Hazardous Materials on, at, in or about the Premises unless and to the extent Subtenant or its Agents or Invitees causes the Release of or exacerbates the condition of such pre-existing Hazardous Materials. The foregoing Indemnity includes, without limitation, all costs associated with the investigation and remediation of Hazardous Material and with the restoration of the Premises or the Property to its prior condition including, without limitation, fines and penalties imposed by regulatory agencies, natural resource damages and losses, and revegetation of the Premises or other Sublandlord property. Without limiting the foregoing, if Subtenant or any of Subtenant's Agents or Subtenant's Invitees, causes or permits the Release of any non-pre-existing Hazardous Materials in, on, under or about the Premises or the Property, Subtenant shall, immediately notify Sublandlord if and when Subtenant learns or has reason to believe there has been any Release of Hazardous Material in, on or about the Premises, and shall, at no expense to Sublandlord, take any and all appropriate actions to return the Premises or other Sublandlord property affected thereby to the condition existing prior to such Release and otherwise investigate and remediate the Release in accordance with all Environmental Laws. Subtenant shall provide Sublandlord with written notice of and afford Sublandlord a full opportunity to participate in any discussions with governmental regulatory agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree, permit, approvals, or other compromise or proceeding involving Hazardous Material.

19.3. **Master Landlord's Environmental Indemnity**. The Parties hereby acknowledge and agree that, pursuant to Section 330 of Public Law 102-484, as amended, Master Landlord is required to hold harmless, defend and indemnify the Sublandlord and Subtenant from and against any suit, claim, demand, action, liability, judgment, cost or fee,

arising out of any claim for personal injury or property damage (including death, illness, loss of or damage to property or economic loss) that results from, or is in any manner predicated upon, the release or threatened release of any hazardous substance, pollutant, contaminant, petroleum product, or petroleum derivative from or on the Premises as a result of Department of Defense activities at the Property. Accordingly, except as specifically provided in Section 19.2 above, Subtenant is not responsible for any remediation activities with respect to the presence of Hazardous Materials on the Premises prior to the Commencement Date.

19.4. Acknowledgment of Receipt of EBS and FOSL Reports. Subtenant hereby acknowledges for itself and Subtenant's Agents that, prior to the execution of this Sublease, it has received and reviewed the Environmental Baseline Survey ("EBS") and the Finding of Suitability to Lease ("FOSL") described in Section 7 of the Master Lease.

20. GENERAL PROVISIONS

20.1. Notices. Except as otherwise expressly provided in this Sublease, any notice given hereunder shall be effective only in writing and given by delivering the notice in person, or by sending it first class mail or certified mail with a return receipt requested or reliable commercial overnight courier, return receipt requested, with postage prepaid as follows:

Notice Address of Sublandlord:	Treasure Island Development Authority Treasure Island Project Office 401 Palm Avenue Building 1, Room 217 Treasure Island Attn: Executive director Tel. No.: (415) 274-0600 Fax No.: (415) 274-0299
with a copy to:	Office of the City Attorney City Hall, Room 234 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102 Attn: Michael S. Cohen Tel No.:415-554-4722 Fax No.: 415 554-4755
Notice Address of Subtenant:	San Francisco Sailing Center Foundation _____ _____ _____ _____ Attn: Tel. No.: Fax No.:

With a copy to : _____
_____
_____
_____
_____
Attn:
Tel. No.:
Fax No.:

Notice Address of Master Landlord: Commanding Officer (Code 24)
Engineering Field Activity West
Naval Facilities Engineering Command
900 Commodore Drive
San Bruno, California 94066

Any Party hereunder may designate a new address for notice purposes hereunder at least ten (10) days prior to the effective date of such change. Any notice hereunder shall be deemed to have been given two (2) days after the date when it is mailed if sent by first class or certified mail, one day after the date it is made, if sent by commercial overnight carrier, or upon the date personal delivery is made, and any refusal by either Party to accept the attempted delivery of any notice, if such attempted delivery is in compliance with this Section 20.1 and applicable Laws, shall be deemed receipt of such notice.

20.2. Security Deposit. Subtenant shall pay to Sublandlord upon execution of this Sublease a security deposit in the amount of Five Thousand Dollars ($5,000) as security for the faithful performance of all terms, covenants and conditions of this Sublease. Subtenant agrees that Sublandlord may (but shall not be required to) apply the security deposit in whole or in part to remedy any damage to the Premises caused by Subtenant, Subtenant's Agents or Subtenant's Invitees, or any failure of Subtenant to perform any other terms, covenants or conditions contained in this Sublease, without waiving any of Sublandlord's other rights and remedies hereunder or at Law or in equity. Should Sublandlord use any portion of the security deposit to cure any Event of Default by Subtenant hereunder, Subtenant shall immediately replenish the security deposit to the original amount, and Subtenant's failure to do so within five (5) days of Sublandlord's notice shall constitute a material Event of Default under this Sublease. Sublandlord's obligations with respect to the security deposit are solely that of debtor and not trustee. Sublandlord shall not be required to keep the security deposit separate from its general funds, and Subtenant shall not be entitled to any interest on such deposit. The amount of the security deposit shall not be deemed to limit Subtenant's liability for the performance of any of its obligations under this Sublease. To the extent that Sublandlord is not entitled to retain or apply the security deposit pursuant to this Section 20.2, Sublandlord shall return such security deposit to Sublandlord within forty-five (45) days of the termination of this Sublease.

20.3. No Implied Waiver. No failure by Sublandlord to insist upon the strict performance of any obligation of Subtenant under this Sublease or to exercise any right, power or

remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues, no acceptance of full or partial Rent during the continuance of any such breach, and no acceptance of the keys to or possession of the Premises prior to the expiration of the Term by any Agent of Sublandlord, shall constitute a waiver of such breach or of Sublandlord's right to demand strict compliance with such term, covenant or condition or operate as a surrender of this Sublease. No express written waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision hereof shall not be deemed to be a waiver of a subsequent default or performance. The consent of Sublandlord given in any instance under the terms of this Sublease shall not relieve Subtenant of any obligation to secure the consent of Sublandlord in any other or future instance under the terms of this Sublease. The provisions of the Section 20.3 shall be mutual to the extent applicable.

20.4. **Amendments**. Neither this Sublease nor any term or provisions hereof may be changed, waived, discharged or terminated, except by a written instrument signed by the Parties hereto.

20.5. **Authority**. The person signing below for Sublandlord represents and warrants that Sublandlord is a non-profit, public benefit corporation, and an instrumentality of the State of California and the City and County of San Francisco, and that he or she has the right and authority to execute this Sublease. If Subtenant signs as a corporation, a partnership or a limited liability company, each of the persons executing this Sublease on behalf of Subtenant does hereby covenant and warrant that Subtenant is a duly authorized and existing entity, that Subtenant has and is qualified to do business in California, that Subtenant has full right and authority to enter into this Sublease, and that each and all of the persons signing on behalf of Subtenant are authorized to do so. Upon Sublandlord's request, Subtenant shall provide Sublandlord with evidence reasonably satisfactory to Sublandlord confirming the foregoing representations and warranties. Without limiting the generality of the foregoing, Subtenant represents and warrants that it has full power to make the waivers and releases , indemnities and the disclosure set forth herein, and that it has received independent legal advice from its attorney as to the advisability of entering into a sublease containing those provisions and their legal effect.

20.6. **Joint and Several Obligations**. The word "Subtenant" as used herein shall include the plural as well as the singular. If there is more than one Subtenant, the obligations and liabilities under this Sublease imposed on Subtenant shall be joint and several.

20.7. **Interpretation of Sublease**. The captions preceding the articles and sections of this Sublease and in the table of contents have been inserted for convenience of reference only and such captions shall in no way define or limit the scope or intent of any provision of this Sublease. This Sublease has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein and shall be interpreted to achieve the intents and purposes of the Parties, without any presumption against the party responsible for drafting any part of this Sublease. Provisions in this Sublease relating to number of days shall be calendar days, unless otherwise specified, provided that if the last day of any period to give notice, reply to a notice or to undertake any other action occurs on a Saturday, Sunday or a bank

or City of San Francisco holiday, then the last day for undertaking the action or giving or replying to the notice shall be the next succeeding business day. Use of the word "including" or similar words shall not be construed to limit any general term, statement or other matter in this Sublease, whether or not language of non-limitation, such as "without limitation" or similar words, are used. Unless otherwise provided herein, whenever the consent of Sublandlord is required to be obtained by Subtenant hereunder, Sublandlord may give or withhold such consent in its sole and absolute discretion.

20.8. Successors and Assigns. Subject to the provisions of Section 13 above, the terms, covenants and conditions contained in this Sublease shall bind and inure to the benefit of Sublandlord and Subtenant and, except as otherwise provided herein, their representatives and successors and assigns.

20.9. Brokers. Neither party has had any contact or dealings regarding the leasing of the Premises, or any communication in connection therewith, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the Sublease contemplated herein. In the event that any broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes a claim shall be responsible for such commission or fee and shall Indemnify the other party from any and all Losses incurred by the indemnified party in defending against the same. The provisions of this Section shall survive any termination of this Sublease.

20.10. Severability. If any provision of this Sublease or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Sublease, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Sublease shall be valid and be enforceable to the fullest extent permitted by Law.

20.11. Governing Law. This Sublease shall be construed and enforced in accordance with the Laws of the State of California.

20.12. Entire Agreement. This instrument (including the exhibits hereto, which are made a part of this Sublease) contains the entire agreement between the Parties regarding the interim subleasing of the Premises and supersedes all prior written or oral negotiations, discussions, understandings and agreements with respect thereto. The Parties further intend that this Sublease shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts of this Sublease and any changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Sublease. Subtenant hereby acknowledges that neither Sublandlord nor Sublandlord's Agents have made any representations or warranties with respect to the Premises or this Sublease except as expressly set forth herein, and no rights, easements or licenses are or shall be acquired by Subtenant by implication or otherwise unless expressly set forth herein.

20.13. **Attorneys' Fees**. In the event that either Sublandlord or Subtenant fails to perform any of its obligations under this Sublease or in the event a dispute arises concerning the meaning or interpretation of any provision of this Sublease, the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights hereunder (whether or not such action is prosecuted to judgment), including, without limitation, court costs and reasonable attorneys' fees.

20.14. **Time of Essence**. Time is of the essence with respect to all provisions of this Sublease in which a definite time for performance is specified.

20.15. **Cumulative Remedies**. All rights and remedies of either party hereto set forth in this Sublease shall be cumulative, except as may otherwise be provided herein.

20.16. **Survival of Indemnities**. Termination of this Sublease shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Sublease, nor shall it affect any provision of this Sublease that expressly states it shall survive termination hereof.

20.17. **Relationship of Parties**. Sublandlord is not, and none of the provisions in this Sublease shall be deemed to render Sublandlord, a partner in Subtenant's business, or joint venturer or member in any joint enterprise with Subtenant. This Sublease is not intended nor shall it be construed to create any third party beneficiary rights in any third party, unless otherwise expressly provided.

20.18. **Non-Liability of Indemnified Parties' officials, employees and Agents**. No elective or appointive board, commission, member, officer or employee of any of the Indemnified Parties shall be personally liable to Subtenant or its successors and assigns in the event of any default or breach by Sublandlord or for any amount which may become due to Subtenant or its successors and assigns, or for any obligation of Sublandlord under this Agreement.

20.19. **Counterparts**. This Sublease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

20.20. **Master Landlord's Consent**. This Sublease is expressly conditioned upon receipt of the written consent of Master Landlord

20.21. **Consent by Sublandlord.** Where consent of Sublandlord is required hereunder, Subtenant may rely on any written consent granted by Sublandlord's Executive Director or her designee.

21. SPECIAL PROVISIONS

21.1. Signs. Subtenant agrees that it will not erect or maintain, or permit to be erected or maintained, any signs, notices or graphics upon or about the Premises, without Sublandlord's prior written consent, which Sublandlord shall not unreasonably withhold or delay.

21.2. Prevailing Wages. With respect to the construction of the Required Improvements or any Alterations, any employee performing services for Subtenant shall be paid not less than the highest prevailing rate of wages as required by Section A7.204 of the City and County of San Francisco Charter and Sections 6.33 through 6.45 of the San Francisco Administrative Code, shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar work performed in San Francisco, California.

21.3. Public Transit Information. Subtenant shall establish and carry on during the Term a program to encourage maximum use of public transportation by personnel of Subtenant employed on the Premises, including, without limitation, the distribution to such employees of written materials explaining the convenience and availability of public transportation facilities adjacent or proximate to the Building and encouraging use of such facilities, all at Subtenant's sole expense.

21.4. Non-Discrimination in City Contracts and Benefits Ordinance.

(a) Covenant Not to Discriminate. In the performance of this Sublease, Subtenant covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with Subtenant, in any of Subtenant's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Subtenant.

(b) Sub-Subleases and Other Subcontracts. Subtenant shall include in all sub-subleases and other subcontracts relating to the Premises a non-discrimination clause applicable to such sub-subtenant or other subcontractor in substantially the form of subsection (a) above. In addition, Subtenant shall incorporate by reference in all sub-subleases and other subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all sub-subtenants and other subcontractors to comply with such provisions. Subtenant's failure to comply with the obligations in this subsection shall constitute a material breach of this Sublease.

(c) Non-Discrimination in Benefits. Subtenant does not as of the date of this Sublease and will not during the Term, in any of its operations in San Francisco or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and

retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(d) Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the Sublease of City property are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Subtenant shall comply fully with and be bound by all of the provisions that apply to this Sublease under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Subtenant understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of $50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Sublease may be assessed against Subtenant and/or deducted from any payments due Subtenant.

21.5. No Relocation Assistance; Waiver of Claims. Subtenant acknowledges that it will not be a displaced person at the time this Sublease is terminated or expires by its own terms, and Subtenant fully RELEASES, WAIVES AND DISCHARGES forever any and all Claims against, and covenants not to sue, Sublandlord, its departments, commissions, officers, directors and employees, and all persons acting by, through or under each of them, under any laws, including, without limitation, any and all claims for relocation benefits or assistance from Sublandlord under federal and state relocation assistance laws (including, but not limited to, California Government Code Section 7260 et seq.), except as otherwise specifically provided in this Sublease with respect to a Taking.

21.6. MacBride Principles - Northern Ireland. The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages then to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1, et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Subtenant acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

21.7. Tropical Hardwood Ban. The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood or tropical hardwood product.

21.8. Conflicts of Interest. Subtenant states that it is familiar with the provisions of Section 8.105 and 8.106 of the San Francisco Charter and certifies that it knows of no facts which would constitute a violation of such provisions. Subtenant further certifies that it has made a complete disclosure to the Sublandlord of all facts bearing on any possible interests, direct or indirect, which Subtenant believes any officer or employee of the Sublandlord presently has or will have in this Sublease or in the performance thereof or in any portion of the profits

thereof. Willful failure by Subtenant to make such disclosure, if any, shall constitute grounds for the Sublandlord's termination and cancellation of this Sublease.

21.9. **Burma (Myanmar) Business Prohibition**. Subtenant is not the government of Burma (Myanmar), a person or business entity organized under the laws of Burma (Myanmar) or a "prohibited person or entity" as defined in Section 12J.2(G) of the San Francisco Administrative Code. The Sublandlord reserves the right to terminate this Sublease for default if Tenant violates the terms of this clause.

Chapter 12J of the San Francisco Administrative Code is hereby incorporated by reference as though fully set forth herein. The failure of Subtenant to comply with any of its requirements shall be deemed a material breach of this Sublease. In the event Subtenant fails to comply in good faith with any of the provisions of Chapter 12J of the San Francisco Administrative Code, Subtenant shall be liable for liquidated damages for each violation in an amount equal to Subtenant's net profit under this Sublease, or 10% of the total amount of the Sublease, or $1,000, whichever is greatest. Subtenant acknowledges and agrees the liquidated damages assessed shall be payable to the Sublandlord upon demand and may be setoff against any moneys due to the Subtenant from this Sublease.

21.10. **Charter Provisions**. This Sublease is governed by and subject to the provisions of the Charter of the City and County of San Francisco.

21.11. **Prohibition of Tobacco Advertising**. Subtenant acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on any real property owned by or under the control of the Sublandlord, including the Premises and the Property. This prohibition includes the placement of the name of a company producing selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This prohibition does not apply to any advertisement sponsored by a state, local or nonprofit entity designed to communication the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.

Sublandlord and Subtenant have executed this Sublease in duplicate as of the date first written above.

SUBTENANT:
SAN FRANCISCO SAILING CENTER FOUNDATION, a California nonprofit public benefit corporation

By
Name: _____
Its: _____

SUBLANDLORD:

THE TREASURE ISLAND DEVELOPMENT AUTHORITY

By: _____
Its: Executive Director

Approved as to Form:

_____
Deputy City Attorney

Approved:

_____
Base Conversion Manager
U.S. Navy
Engineering Field Activities West

Approved 12/15/99

10/99

Treasure Island Development Authority
Minutes of November 10, 1999 Regular Meeting

Since a quorum was not constituted until 1:40 p.m., Vice Chair Elberling requested that the Executive Director give her report.

5. Executive Director's Report

- Report on access to Treasure Island including public use last month- Ms. Conroy reported that Bay Area Backroads had been filming a small feature on TI, the weekly Flea Market, 60 weddings had been held on TI just this year and that 15 holiday parties are scheduled.
- Status of environmental clean up- Martha Walters reported that the Navy is continuing clean-up work and that she is continuing to monitor their work.

Mr. Elberling asked if the Navy was finished with clean-up in the residential areas and Ms. Walters replied that they had not and that clean-up is proceeding in conjunction with other government agencies.

- Report on short-term leases- Ms. Conroy reported that there are no new short term leases
- Report on TIDA budget – Ms. Eila Arbuckle distributed an updated budget and reported that the Project Office is close to budget projections. However, actual revenues have not projections for commercial rental income because Building 3 has been vacant for a couple of months. The $500,000 budgeted for monitoring the Navy's environmental remediation activities was placed on reserve by the Board of Supervisors pending establishment of a contract for such services.
- Report on San Francisco-Oakland Bay Bridge/Caltrans issues-Ms. Conroy stated that the Project Office had been discussing various items with agencies involved in the Bay Bridge replacement project.
- Report on TIHDI- Ms. Conroy reported that TIHDI projects were on-track and that another Community meting is scheduled for December 7th with the John Stewart Company taking the lead. Pacific Bell and the cable company will send representatives
- Report on legislation/hearings affecting Treasure Island-Ms. Conroy reported that Proposition C which includes TI in the 6th Supervisorial District was approved by voters on November 2nd and that the Cooperative Agreement approved by the Authority on October 20th had been approved by the Board of Supervisors on November 8th.

At 1:40 p.m. with a quorum present, Vice Chair Elberling called the meeting to order and the roll was called.

1. Call to Order: 1:40 p.m. in Room 400, City Hall

Roll Call:

Present:
John Elberling, Vice Chair
James Morales (left 2:55)
Gerald Green (left 3:50)
Anne Halsted (2:05)
Susan Po-Rufino

Excused:
William Fazande
Doug Wong

2. Approval of Minutes:

The minutes of October 20th were approved.

3. Communications - The Commission Secretary reported there were none.
6. Public Comment None
7. Resolution authorizing negotiations with convenience store operator (*Action item*)

Stephen Proud, Development Director, described the background of the efforts to open a convenience store on Treasure Island. He indicated that under TIDA's lease with the John Stewart Company (JSC), if neither the Authority nor TIHDI had established a convenience store on Treasure Island by March 31, 1999, the Authority is required to negotiate and use good faith efforts to enter into a sublease with JSC or other entity acceptable to JSC for the operation of a convenience store. Working with the JSC, a convenience store operator has been identified, Susie S. Pak Co. Mr. Proud indicated that it is difficult to find an existing structure on TI to convert to a store and offer long-term use. Current plans are to move a mobile structure to a vacant lot on H and 13th Streets. The store would contain a grocery section, video rentals, laundry and some take-out foods. The sublease has not yet been finalized. The resolution permits the Executive Director to continue negotiations with Susie Pak.

Responding to questions from Mr. Green, Mr. Proud indicated that the lease would be concurrent with the JSCo's, six years and that it is the responsibility of TIDA to provide only the space for the store with the developer furnishing improvements.

Mr. Morales inquired about the type of solicitation to other prospective developers and Mr. Proud responded that in addition to TIHDI, the Project Office also referred several other prospective developers to the JSC. Mr. Morales inquired about the terms of termination and if TIDA would incur relocation costs if a master developer needed the site for construction. Mr. Cohen replied that the sublease would provide for rent credit to offset certain relocation costs, subject to a maximum of $10,000. In response to Mr. Morales, Mr. Proud also stated that the Project Office agreed not to solicit other operators for stores focused solely on residential tenants on TI, but that marina or other long-term development opportunities would not be affected.

Ms. Conroy stated that the agreement provides for limitations on the price of items. Mr. Morales asked if the design could be improved upon and Mr. Green asked for an update as plans are developed. Mr. Green asked about the location of the ATM and other operations and Mr. Proud responded that the Authority would be provided with site and floor plans and Ms. Conroy added that the Authority would review the store's hours of operation.

Mr. Morales stated that the store brings to mind the issue of how the island deals with design review.

Mr. Elberling asked about pricing limits and Ms. Conroy informed him that gross margins cannot exceed 35% more than the cost of goods overall.

Public Comment: Mike Smith-Heimer, JSC, indicated that JSC had initiated a mini-solicitation for a convenience store operator and had talked with five different operators. He indicated that JSC has acted as the broker and that TIDA would be contracting directly with the operator. Smith-Heimer indicated that Ms. Pak has 22 years of experience and owns 12 stores and gas stations.

In response to Mr. Elberling's question, Mr. Smith-Heimer responded that it would take 90 days to construct and open the convenience store after a contract is signed.

In response to Mr. Green's question about a liquor license, Mr. Cohen indicated that it is Ms. Pak's responsibility to obtain one. Mr. Cohen added that if TIDA so desired, the sublease with Ms. Pak could prohibit such license.

Ms. Po-Rufino moved approval, Ms. Halsted seconded the motion. Approved, 5-0.

8. Resolution authorizing the Executive Director to execute a contract for janitorial services for the period 11/10/99 through 10/1/2000 for an amount not to exceed $100,000 with Toolworks, a member organization of TIHDI *(Action item)*

Ms. Eila Arbuckle stated that the contract includes 69 hours of service weekly or $78,120 per year and an additional $28,880 for additional janitorial services, including carpet cleaning, and litter pick up on an as-needed basis.

Mr. Green inquired about excess damage from special events and Ms. Arbuckle responded that special event sponsors are responsible for damages under their agreement with the Project Office.

Public Comment- Sherry Williams, TIHDI, stated that the Toolworks contract shows the intent of the McKinney Act and provides a living wage to economically disadvantaged people.

Ms. Halsted moved approval and Mr. Green seconded. Approved, 5-0.

9. Workshop on preliminary development concept for Treasure Island marina (continued)

Mr. Proud described the history background for Treasure Island Enterprise's (TIE) presentation indicating that as part of the milestones of the Exclusive Negotiating Agreement (ENA), TIE would present a preliminary development plan for the marina. Mr. Proud stated that the presentation will highlight three key issues: 1) establishing boundaries for the marina development, 2) reaching agreement on design elements and, 3) identifying permitted uses. In order to move forward with a termsheet, the two parties must have substantial agreement on the boundaries and principal uses.

Mr. Proud stated that both design options are contained within the same boundaries and that the Authority will have additional opportunities to comment on the design concept. Mr. Proud described existing conditions on the island, indicating current parking areas and the soundstages. He stated that an area on the northeast portion of the island is being considered for drystack storage.

Mr. Proud enumerated the sources of input for the plan and listed key issues in deliberating on the preliminary concept. He stated that development flexibility is essential and that Building 180 and an adjacent parking are critical components for a long-term master development program. For those reasons, Building 180 is excluded from the preliminary development plan. It is also a source of interim revenue for TIDA as a special events venue.

Mr. Proud stated that where feasible the 100' foot wide band of open space would be observed and that the preliminary plan includes extensive public access and open space. He added that parking for marina and landside uses must be included within the boundaries and consist of 245 spaces or .6 ratio per slip.

Mr. Elberling called on John Sanger, counsel for TIE, to start the presentation and Mr. Sanger stated that TIE had made several changes to its RFP response and is not wedded to either of the two options presented and then enumerated four key issues. The most important (1) is the withdrawal of Building 180 which will compel TIE to find other locations for other uses. He added (2) that the area between Building 1 and the existing marina should be used by the public for access to the marina. Mr. Sanger also stated that TIE plans to

relocate the dock for megayachts easterly which triggers a reexamination of parking locations and (4) a need to retain maximum flexibility.

Mr. Sanger urged Authority members to keep four issues in mind: 1) the need to provide additional parking for public access, 2) the desirability of keeping support functions close to the marina area, 3) parking is needed to support marina uses and, 4) the phasing of uses and improvements over time.

Dennis Henmi, Kwan Henmi, presented site plans for two preliminary plans for the marina.

Mr. Elberling stated that because the Authority would soon lose its quorum that the balance of the presentation be delayed until item #10 and the Closed Session had been completed.

The presentation resumed at 3:50 p.m. with Jeff Stahl showing depictions of restaurant and marina operations buildings and the differences between the two options. Randy Short described the structural elements in the water at Clipper Cove stating that the preservation of view corridors is a priority. He indicated that docking configuration at the end of each dock would be in a pitchfork arrangement with boats of the same size docked at the end ties. A floating breakwater is placed at the easterly end of the marina with the public access pier in the center. Short-term berthing would utilize unutilized berths and the inside portion of the public access pier.

There was no public comment.

Mr. Elberling and Ms. Halsted complimented staff and TIE on the presentation. Mr. Elberling inquired if TIE would agree that the space allocated for parking at the southeast corner of the island be kept flexible for development opportunities.

Mr. Elberling stated that he and Mr. Green did not care for the double-loaded parking arrangement in Option B. Mr. Elberling stated that the bike and skating lane should be kept separate from pedestrians and that he and Mr. Green agreed that the area next to Building 1 should be kept for the public and not for parking.

Ms. Halsted stated that she agreed with Mr. Elberling about the parking which should be hidden as much as possible. She asked about the need for a firelane along the edge and likes the separation of pedestrians. Ms. Halsted stated that additional architectural concepts need to be brought before the Authority.

Ms. Po-Rufino stated that a restaurant should take advantage of views. Mr. Cohen stated that because the parcel next to Building 1 is large, it may also be possible to accommodate some parking without ruining visual approaches to Treasure Island. Mr. Elberling stated that he would defer to Mr. Green and the Planning Department in the matter.

10. Resolution approving sublease for San Francisco Sailing Center Foundation (Action item)

Mr. Proud stated that the S.F. Sailing Center had been issued a six-month permit on 3/1/99 and on 8/16/99 had been granted a three-month extension to coordinate activities and the sharing of facilities with TIE. The proposed sublease will be concurrent with the ENA for TIE, two years. Mr. Proud outlined the parameters of the sublease including a monthly rent of $2500 not including CAM charges or utilities. A security deposit of $5,000 is required. Department of Building Inspection required improvements must be paid by the Sailing Center with the Authority granting a rent credit to offset some costs.

Ms. Rufino requested that the provision in Section 9 relating to hazardous waste inspection be more specific. Mr. Cohen stated that that could be done.

Mr. Green moved approval, seconded by Ms. Halsted. Approved, 4-0.

11. POSSIBLE CLOSED SESSION

12. CLOSED SESSION

The Authority met in closed session to discuss real estate negotiations.

Discussion and vote on whether to disclose action taken or discussions held in Closed Session.

Motion that the Treasure Island Development Authority elects at this time not to disclose its closed session deliberations. Passed unanimously.

14. Adjourn The meeting adjourned at 3:25 p.m.

OFFICE OF THE MAYOR
SAN FRANCISCO

TREASURE ISLAND PROJECT
410 AVENUE OF PALMS, BLDG #1
TREASURE ISLAND
SAN FRANCISCO, CA 94130
(415) 274-0660
FAX (415) 274-0299

WILLIE LEWIS BROWN, JR.

TREASURE ISLAND DEVELOPMENT AUTHORITY
AGENDA FOR REGULAR MEETING
WEDNESDAY, DECEMBER 8, 1999 - 1 P.M.

Room 400, City Hall
1 Dr. Carlton Goodlett Place

Willie L. Brown, Jr., Mayor

DIRECTORS

John Elberling, Vice-Chairman
William Fazande
Susan Po-Rufino
Doug Wong
Gerald Green
Anne Halsted
James Morales

Annemarie Conroy
Executive Director
Treasure Island Development Authority

ORDER OF BUSINESS

1. Call to Order and Roll Call
2. Approval of Minutes
3. Communications
4. Ongoing Business by Directors and Introduction of New Business by members
5. Report of the Treasure Island Project Director Annemarie Conroy
   - Report on access to Treasure Island including public use last month
   - Status of environmental clean up
   - Report on short-term leases
   - Update on marina negotiations
   - Report on San Francisco-Oakland Bay Bridge/Caltrans issues
   - Report on TIHDI
   - Legislation/hearings affecting Treasure Island
6. Public Comment
7. Resolution authorizing negotiations with California Engineering Contractors for lay down area on Treasure Island for retrofit of west span of Bay Bridge (*Action item*)
8. Resolution approving sublease with San Francisco Little League (*Action item*)

9. Resolution authorizing contract with Treasure Island Homeless Development Initiative (TIHDI) for no more than $75,000 to facilitate participation of service organizations in implementing base closure homeless assistance agreement and option to lease real property (*Action item*)
10. Resolution approving sublease with convenience store operator (*Action item*)
11. Adjourn

OFFICE OF THE MAYOR
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SAN FRANCISCO, CA 94130
(415) 274-0660
FAX (415) 274-0299

WILLIE LEWIS BROWN, JR.

/8/99
ancelled

TREASURE ISLAND DEVELOPMENT AUTHORITY

PLEASE NOTE THAT THE DECEMBER 8, 1999 REGULAR MEETING AT 1 P.M. IN ROOM 400 CITY HALL HAS BEEN CANCELLED AND A SPECIAL MEETING HAS BEEN SCHEDULED FOR DECEMBER 15TH AT 2 PM IN ROOM 416 OF CITY HALL.

** TOTAL PAGE.02 **

OFFICE OF THE MAYOR
SAN FRANCISCO

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WILLIE LEWIS BROWN, JR.

*Note: Agenda for [illegible] meeting [illegible] 12/7/99 attachments apply to this meeting also

74

12/15/99
Special

PLEASE NOTE THAT THE DECEMBER 8, 1999 MEETING HAS BEEN CANCELLED AND A SPECIAL MEETING HAS BEEN SCHEDULED FOR DECEMBER 15TH AS DETAILED BELOW

TREASURE ISLAND DEVELOPMENT AUTHORITY
AGENDA FOR SPECIAL MEETING
WEDNESDAY, DECEMBER 15, 1999 - 2 P.M.

Room 416, City Hall
1 Dr. Carlton Goodlett Place

Willie L. Brown, Jr., Mayor

DIRECTORS

John Elberling, Vice-Chairman
William Fazande
Susan Po-Rufino
Doug Wong
Gerald Green
Anne Halsted
James Morales

Annemarie Conroy
Executive Director
Treasure Island Development Authority

ORDER OF BUSINESS

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   - Update on marina negotiations
   - Report on San Francisco-Oakland Bay Bridge/Caltrans issues

- Report on TIHDI
- Legislation/hearings affecting Treasure Island

6. Public Comment
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8. Resolution approving sublease with San Francisco Little League (*Action item*)
9. Resolution authorizing contract with Treasure Island Homeless Development Initiative (TIHDI) for no more than $75,000 to facilitate participation of service organizations in implementing base closure homeless assistance agreement and option to lease real property (*Action item*)
10. Resolution approving sublease with convenience store operator (*Action item*)
11. Resolution authorizing the release of funds for an amount not to exceed $200,000 to the Department of Public Works to fund an extension of the contract with Geomatrix to continue to provide technical oversight of the U.S. Navy's environmental clean-up program on TI (*Action item*)
12. Adjourn

TREASURE ISLAND DEVELOPMENT AUTHORITY

Disability Access

The Treasure Island Development Authority will meet at City Hall, 1 Dr. Carlton Goodlett Place. City Hall is accessible to persons using wheelchairs, and others with disabilities. For American Sign Language interpreters or use of a reader during a meeting, a sound enhancement system, and/or alternative formats of the agenda and minutes, please telephone 554-6789 at least 72 hours before a meeting.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City accommodate these individuals.

The closest accessible BART is Civic Center, three blocks from the City Hall at the intersection of Market, Grove and Hyde Streets. Accessible MUNI lines serving this location are: #42 Downtown Loop, 9 San Bruno and the #71 Haight/Noriega. Accessible Muni Metro lines are J, K, L, M and N stopping at the Muni Metro Civic Center Station at Market and Van Ness. For more information about MUNI accessible services, call 923-6142.

Accessible curbside parking is available on Grove Street.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance [Chapter 67 of the San Francisco Administrative Code] or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force at 554-4851.

Lobbyist Ordinance

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Administrative Code 16.520-16.534] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street, #701, San Francisco, CA 94102, telephone (415) 554-9510, fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

Treasure Island Development Authority
410 Palm Avenue, Building 1, 2nd Floor
Treasure Island
San Francisco, CA 94130

Ms. Susan Hom
Government Info Center Main Library
100 Larkin St.
San Francisco, CA 94102

CANCELLATION NOTICE AND NOTICE OF RESCHEDULED MEETING

The meeting of Wednesday, December 8, 1999 has been cancelled and a special meeting will be held on Wednesday, December 15th at 2 p.m. in Room 416

Next regular meeting: Wednesday, January 12, 2000

A binder of supporting material is available for public viewing at the Mayor's Treasure Island Project office, 410 Palm Avenue, on Treasure Island and at the Government Information Center reference desk, Main Library, Civic Center.

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DRAFT

Treasure Island Development Authority
Minutes of November 10, 1999 Regular Meeting

Since a quorum was not constituted until 1:40 p.m., Vice Chair Elberling requested that the Executive Director give her report.

5. Executive Director's Report

- Report on access to Treasure Island including public use last month- Ms. Conroy reported that Bay Area Backroads had been filming a small feature on TI, the weekly Flea Market, 60 weddings had been held on TI just this year and that 15 holiday parties are scheduled.
- Status of environmental clean up- Martha Walters reported that the Navy is continuing clean-up work and that she is continuing to monitor their work.

Mr. Elberling asked if the Navy was finished with clean-up in the residential areas and Ms. Walters replied that they had not and that clean-up is proceeding in conjunction with other government agencies.

- Report on short-term leases- Ms. Conroy reported that there are no new short term leases
- Report on TIDA budget – Ms. Eila Arbuckle distributed an updated budget and reported that the Project Office is close to budget projections. However, actual revenues have not projections for commercial rental income because Building 3 has been vacant for a couple of months. The $500,000 budgeted for monitoring the Navy's environmental remediation activities was placed on reserve by the Board of Supervisors pending establishment of a contract for such services.
- Report on San Francisco-Oakland Bay Bridge/Caltrans issues-Ms. Conroy stated that the Project Office had been discussing various items with agencies involved in the Bay Bridge replacement project.
- Report on TIHDI- Ms. Conroy reported that TIHDI projects were on-track and that another Community meting is scheduled for December 7th with the John Stewart Company taking the lead. Pacific Bell and the cable company will send representatives
- Report on legislation/hearings affecting Treasure Island-Ms. Conroy reported that Proposition C which includes TI in the 6th Supervisorial District was approved by voters on November 2nd and that the Cooperative Agreement approved by the Authority on October 20th had been approved by the Board of Supervisors on November 8th.

At 1:40 p.m. with a quorum present, Vice Chair Elberling called the meeting to order and the roll was called.

1. Call to Order: 1:40 p.m. in Room 400, City Hall

Roll Call:

Present:
John Elberling, Vice Chair
James Morales (left 2:55)
Gerald Green (left 3:50)
Anne Halsted (2:05)
Susan Po-Rufino

Excused:
William Fazande
Doug Wong

2. Approval of Minutes:

The minutes of October 20th were approved.

3. Communications - The Commission Secretary reported there were none.
6. Public Comment None
7. Resolution authorizing negotiations with convenience store operator (*Action item*)

Stephen Proud, Development Director, described the background of the efforts to open a convenience store on Treasure Island. He indicated that under TIDA's lease with the John Stewart Company (JSC), if neither the Authority nor TIHDI had established a convenience store on Treasure Island by March 31, 1999, the Authority is required to negotiate and use good faith efforts to enter into a sublease with JSC or other entity acceptable to JSC for the operation of a convenience store. Working with the JSC, a convenience store operator has been identified, Susie S. Pak Co. Mr. Proud indicated that it is difficult to find an existing structure on TI to convert to a store and offer long-term use. Current plans are to move a mobile structure to a vacant lot on H and 13th Streets. The store would contain a grocery section, video rentals, laundry and some take-out foods. The sublease has not yet been finalized. The resolution permits the Executive Director to continue negotiations with Susie Pak.

Responding to questions from Mr. Green, Mr. Proud indicated that the lease would be concurrent with the JSCo's, six years and that it is the responsibility of TIDA to provide only the space for the store with the developer furnishing improvements.

Mr. Morales inquired about the type of solicitation to other prospective developers and Mr. Proud responded that in addition to TIHDI, the Project Office also referred several other prospective developers to the JSC. Mr. Morales inquired about the terms of termination and if TIDA would incur relocation costs if a master developer needed the site for construction. Mr. Cohen replied that the sublease would provide for rent credit to offset certain relocation costs, subject to a maximum of $10,000. In response to Mr. Morales, Mr. Proud also stated that the Project Office agreed not to solicit other operators for stores focused solely on residential tenants on TI, but that marina or other long-term development opportunities would not be affected.

Ms. Conroy stated that the agreement provides for limitations on the price of items. Mr. Morales asked if the design could be improved upon and Mr. Green asked for an update as plans are developed. Mr. Green asked about the location of the ATM and other operations and Mr. Proud responded that the Authority would be provided with site and floor plans and Ms. Conroy added that the Authority would review the store's hours of operation.

Mr. Morales stated that the store brings to mind the issue of how the island deals with design review.

Mr. Elberling asked about pricing limits and Ms. Conroy informed him that gross margins cannot exceed 35% more than the cost of goods overall.

Public Comment: Mike Smith-Heimer, JSC, indicated that JSC had initiated a mini-solicitation for a convenience store operator and had talked with five different operators. He indicated that JSC has acted as the broker and that TIDA would be contracting directly with the operator. Smith-Heimer indicated that Ms. Pak has 22 years of experience and owns 12 stores and gas stations.

In response to Mr. Elberling's question, Mr. Smith-Heimer responded that it would take 90 days to construct and open the convenience store after a contract is signed.

In response to Mr. Green's question about a liquor license, Mr. Cohen indicated that it is Ms. Pak's responsibility to obtain one. Mr. Cohen added that if TIDA so desired, the sublease with Ms. Pak could prohibit such license.

Ms. Po-Rufino moved approval, Ms. Halsted seconded the motion. Approved, 5-0.

8. Resolution authorizing the Executive Director to execute a contract for janitorial services for the period 11/10/99 through 10/1/2000 for an amount not to exceed $100,000 with Toolworks, a member organization of TIHDI *(Action item)*

Ms. Eila Arbuckle stated that the contract includes 69 hours of service weekly or $78,120 per year and an additional $28,880 for additional janitorial services, including carpet cleaning, and litter pick up on an as-needed basis.

Mr. Green inquired about excess damage from special events and Ms. Arbuckle responded that special event sponsors are responsible for damages under their agreement with the Project Office.

Public Comment- Sherry Williams, TIHDI, stated that the Toolworks contract shows the intent of the McKinney Act and provides a living wage to economically disadvantaged people.

Ms. Halsted moved approval and Mr. Green seconded. Approved, 5-0.

9. Workshop on preliminary development concept for Treasure Island marina (continued)

Mr. Proud described the history background for Treasure Island Enterprise's (TIE) presentation indicating that as part of the milestones of the Exclusive Negotiating Agreement (ENA), TIE would present a preliminary development plan for the marina. Mr. Proud stated that the presentation will highlight three key issues: 1) establishing boundaries for the marina development, 2) reaching agreement on design elements and, 3) identifying permitted uses. In order to move forward with a termsheet, the two parties must have substantial agreement on the boundaries and principal uses.

Mr. Proud stated that both design options are contained within the same boundaries and that the Authority will have additional opportunities to comment on the design concept. Mr. Proud described existing conditions on the island, indicating current parking areas and the soundstages. He stated that an area on the northeast portion of the island is being considered for drystack storage.

Mr. Proud enumerated the sources of input for the plan and listed key issues in deliberating on the preliminary concept. He stated that development flexibility is essential and that Building 180 and an adjacent parking are critical components for a long-term master development program. For those reasons, Building 180 is excluded from the preliminary development plan. It is also a source of interim revenue for TIDA as a special events venue.

Mr. Proud stated that where feasible the 100' foot wide band of open space would be observed and that the preliminary plan includes extensive public access and open space. He added that parking for marina and landside uses must be included within the boundaries and consist of 245 spaces or .6 ratio per slip.

Mr. Elberling called on John Sanger, counsel for TIE, to start the presentation and Mr. Sanger stated that TIE had made several changes to its RFP response and is not wedded to either of the two options presented and then enumerated four key issues. The most important (1) is the withdrawal of Building 180 which will compel TIE to find other locations for other uses. He added (2) that the area between Building 1 and the existing marina should be used by the public for access to the marina. Mr. Sanger also stated that TIE plans to

relocate the dock for megayachts easterly which triggers a reexamination of parking locations and (4) a need to retain maximum flexibility.

Mr. Sanger urged Authority members to keep four issues in mind: 1) the need to provide additional parking for public access, 2) the desirability of keeping support functions close to the marina area, 3) parking is needed to support marina uses and, 4) the phasing of uses and improvements over time.

Dennis Henmi, Kwan Henmi, presented site plans for two preliminary plans for the marina.

Mr. Elberling stated that because the Authority would soon lose its quorum that the balance of the presentation be delayed until item #10 and the Closed Session had been completed.

The presentation resumed at 3:50 p.m. with Jeff Stahl showing depictions of restaurant and marina operations buildings and the differences between the two options. Randy Short described the structural elements in the water at Clipper Cove stating that the preservation of view corridors is a priority. He indicated that docking configuration at the end of each dock would be in a pitchfork arrangement with boats of the same size docked at the end ties. A floating breakwater is placed at the easterly end of the marina with the public access pier in the center. Short-term berthing would utilize unutilized berths and the inside portion of the public access pier.

There was no public comment.

Mr. Elberling and Ms. Halsted complimented staff and TIE on the presentation. Mr. Elberling inquired if TIE would agree that the space allocated for parking at the southeast corner of the island be kept flexible for development opportunities.

Mr. Elberling stated that he and Mr. Green did not care for the double-loaded parking arrangement in Option B. Mr. Elberling stated that the bike and skating lane should be kept separate from pedestrians and that he and Mr. Green agreed that the area next to Building 1 should be kept for the public and not for parking.

Ms. Halsted stated that she agreed with Mr. Elberling about the parking which should be hidden as much as possible. She asked about the need for a firelane along the edge and likes the separation of pedestrians. Ms. Halsted stated that additional architectural concepts need to be brought before the Authority.

Ms. Po-Rufino stated that a restaurant should take advantage of views. Mr. Cohen stated that because the parcel next to Building 1 is large, it may also be possible to accommodate some parking without ruining visual approaches to Treasure Island. Mr. Elberling stated that he would defer to Mr. Green and the Planning Department in the matter.

10. Resolution approving sublease for San Francisco Sailing Center Foundation (Action item)

Mr. Proud stated that the S.F. Sailing Center had been issued a six-month permit on 3/1/99 and on 8/16/99 had been granted a three-month extension to coordinate activities and the sharing of facilities with TIE. The proposed sublease will be concurrent with the ENA for TIE, two years. Mr. Proud outlined the parameters of the sublease including a monthly rent of $2500 not including CAM charges or utilities. A security deposit of $5,000 is required. Department of Building Inspection required improvements must be paid by the Sailing Center with the Authority granting a rent credit to offset some costs.

Ms. Rufino requested that the provision in Section 9 relating to hazardous waste inspection be more specific. Mr. Cohen stated that that could be done.

Mr. Green moved approval, seconded by Ms. Halsted. Approved, 4-0.

11. POSSIBLE CLOSED SESSION

12. CLOSED SESSION

The Authority met in closed session to discuss real estate negotiations.

Discussion and vote on whether to disclose action taken or discussions held in Closed Session.

Motion that the Treasure Island Development Authority elects at this time not to disclose its closed session deliberations. Passed unanimously.

14. Adjourn The meeting adjourned at 3:25 p.m.

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AGENDA ITEM
Treasure Island Development Authority
City and County of San Francisco

Subject: Resolution Authorizing the Executive Director To Enter into Sole Source Negotiations with California Engineering Contractors

Agenda Item No. 7
Meeting of December 10, 1999

Contact/Phone: Annemarie Conroy, Executive Director
Stephen Proud, Director of Development
274-0660

SUMMARY OF PROPOSED ACTION:

This action provides authorization for the Executive Director to enter into sole source negotiations with California Engineering Contractors for lay down space on Treasure Island.

BACKGROUND

During the month of July 1999, several firms bidding on a contract with Caltrans for the seismic retrofit of the western span of the Bay Bridge contacted the Authority to inquire about leasing lay down space on Treasure Island. In response to those inquires, Authority staff issued a letter to three bidders, and sent copies of the letter to two other bidders, outlining the terms under which the Authority would consider leasing lay down space on Treasure Island. Once Caltrans awarded the contract, California Engineering Contractors (CEC) contacted the Authority and submitted a proposal for lay down space.

CEC is requesting the use of approximately three and one half acres of land located near the center of Treasure Island (see attached map). The area encompasses one full block and is unpaved with a small structure on the western edge of the property. Immediately to the east of the proposed site is the former Navy Exchange Building (#201) and to the immediate west of the block is the old medical/dental facility (#257). These two facilities will not be reused in the interim and will be demolished as part of the long-term redevelopment effort. The areas to the south and north are undeveloped lots with no existing structures.

In general, CEC is proposing the following uses for the site (see attached site plan for location of proposed activities):

- Temporary office complex comprised of several modular trailers coupled together;
- Delivery and storage location for fabricated steel used to retrofit the Bridge;
- Assembly site for workers on the retrofit project;
- Light vehicle maintenance for project support vehicles and equipment;

- Refueling of equipment and vehicles;
- Storage of equipment, such as Cranes, Boom Trucks, Forklifts, etc; and
- Reclassification of steel grit.

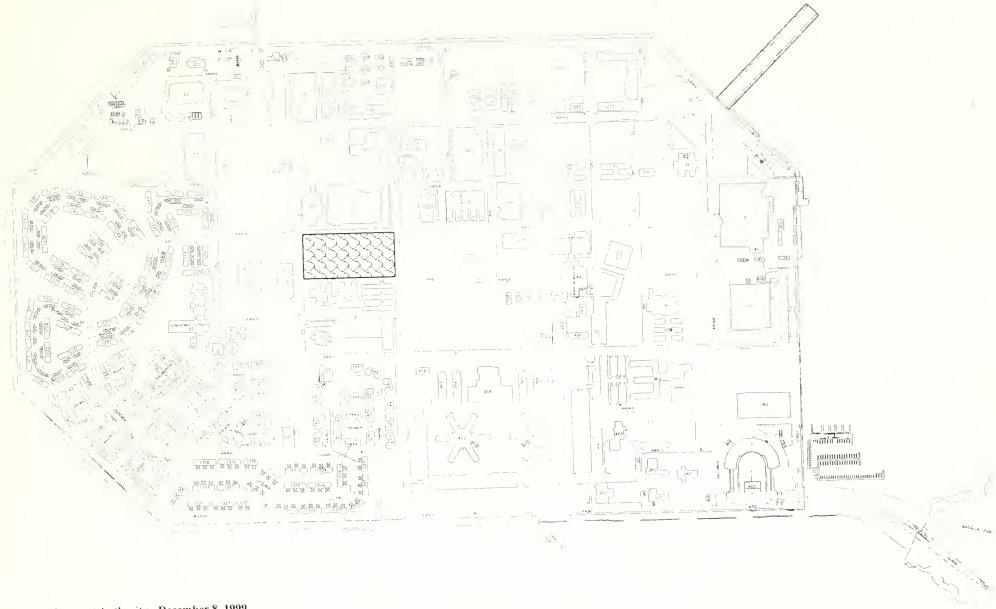
The costs for any improvements made to the site, including the provision of utilities, would be the responsibility of CEC and the Authority would have approval rights for those improvements. The Authority would require the entire site be fenced for security purposes and that CEC adhere to strict requirements regarding truck travel, noise, and the storage of hazardous materials.

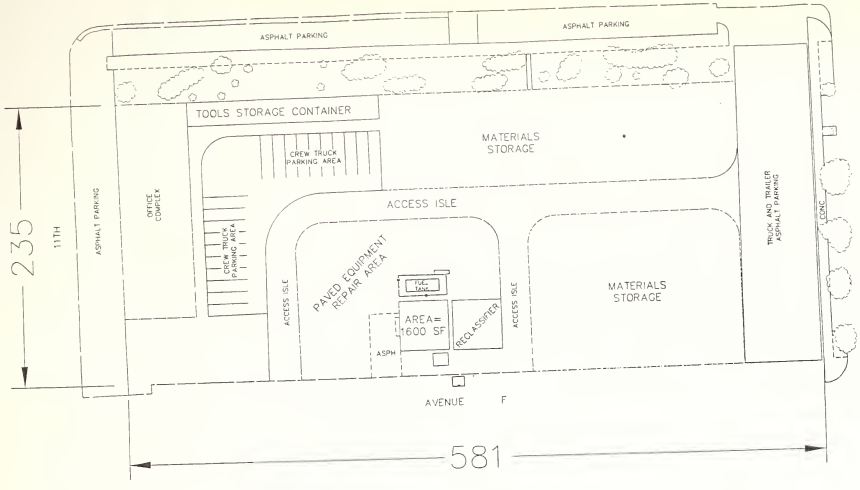
To meet the needs of the retrofit project, CEC is requesting a lease term of three years. Staff is proposing that if the three year term is granted, the Authority retain the right to terminate the lease with six months notice, if the site is needed to further long term redevelopment of the Island.

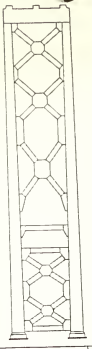
The proposed rent for the site would be $.15 per square foot or approximately $25,000 per month. The annual rent to the Authority would be approximately $300,000. CEC would be responsible for all utility costs, landscaping costs, security costs, and Common Area Maintenance (CAM) charges levied by the Navy.

Under the Authority's Rules and Procedures for the Transfer of Real Property, the authorization to negotiate a sole source contract requires a 4/5 vote of the Authority's Board of Directors. Since, CEC was the firm selected by Caltrans to conduct the retrofit, and the location and term of the proposed interim sublease is consistent with long-term reuse of the Island, staff is recommending that the Authority authorize the Executive Director to enter into sole source negotiations with CEC.

Proposed Lay Down Site







Revision	Date	Issue	Description	Drawn	Chkd.

DRAWN BY	DATE	AS NOTED
CHECKED BY		
APPROVED BY (Project Engineer)	DATE	

PROJECT :

SAN FRANCISCO – OAKLAND BAY BRIDGE

OWNER :

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

california engineering

MODERN CONTINENTAL
a joint venture

CONSULTANT :

ENGINEERING

CONTRACT # :

04-0435U4 – SF-80-35/7.8

DWG TITLE

OFFICE COMPLEX

Dwg No. LO-1

Rev. Ad

Sheet No.

[Authorization for Sole Source Negotiations of an Interim Sublease]

AUTHORIZING THE TREASURE ISLAND DEVELOPMENT AUTHORITY TO NEGOTIATE AN INTERIM SUBLEASE WITH CALIFORNIA ENGINEERING ON A SOLE-SOURCE-BASIS FOR THE USE OF LAY DOWN SPACE ON TREASURE ISLAND RELATED TO THE SEISMIC RETROFIT OF THE WESTERN SPAN OF THE SAN FRANCISCO-OAKLAND BAY BRIDGE.

WHEREAS, On May 2, 1997, the Board of Supervisors (the "Board") passed Resolution No. 380-97, authorizing the Mayor's Treasure Island Project Office to establish a nonprofit public benefit corporation known as the Treasure Island Development Authority (the "Authority") to act as a single entity focused on the planning, redevelopment, reconstruction, rehabilitation, reuse and conversion of former Naval Station Treasure Island (the "Base") for the public interest, convenience, welfare and common benefit of the inhabitants of the City and County of San Francisco; and,

WHEREAS, Under the Treasure Island Conversion Act of 1997, which amended Section 33492.5 of the California Health and Safety Code and added Section 2.1 to Chapter 1333 of the Statutes of 1968 (the "Act"), the California legislature (i) designated the Authority as a redevelopment agency under California redevelopment law with authority over the Base upon approval of the City's Board of Supervisors, and, (ii) with respect to those portions of the Base which are subject to the Tidelands Trust, vested in the Authority the authority to administer the public trust for commerce, navigation and fisheries as to such property; and,

WHEREAS, The Tidelands Trust prohibits the sale of trust property into private ownership, generally requires that Tidelands Trust property be accessible to the public and encourages public-oriented uses of trust property that, among other things, attract people to the waterfront, promote public recreation, protect habitat and preserve open space; and,

WHEREAS, In order to facilitate productive reuse and job creation on the Base, it may be beneficial for the Authority to lease or license property from the Navy and, in turn, sublease or sublicense such property to third-parties or use such property for municipal purposes; and,

WHEREAS, Under the Authority's Rules and Procedures for the Transfer of Real Property, adopted by the Authority on March 11, 1998 (the "Transfer Rules"), subject to certain specific exceptions, the Authority may not transfer real property on the Base on a sole-source basis absent specific authorization by the Authority's Board of Directors to the contrary by a 4/5 vote; and,

WHEREAS, In connection with its plans to retrofit the Western Span of the Bay Bridge, Caltrans competitively solicited bids for contractors to perform that work; and,

WHEREAS, Authority staff provided information about possible leasing opportunities for lay down space on the Base to all such bidders who requested the information; and,

WHEREAS, California Engineering Contractors was the firm selected by Caltrans to do the seismic retrofit work on the Western Span of the Bay Bridge; and,

WHEREAS, California Engineering has requested the use of approximately three acres of vacant land on Treasure Island as temporary construction offices and lay down space for the retrofit project for a period of approximately three years at a rental rate of approximately Twenty Five Thousand Dollars ($25,000) per month, subject to the general terms and conditions described on Exhibit A attached hereto (the "Term Sheet"); and,

WHEREAS, As required by the Transfer Rules, the Authority hereby finds that negotiating a sole-source sublease with California Engineering is likely to achieve the identifiable public benefit of increasing public safety on the Bay Bridge, and that a public, competitive solicitation is impractical because California Engineering is the sole company selected by Caltrans to do such retrofit work; Now, therefore, be it

RESOLVED, That the Authority hereby authorizes the Executive Director to negotiate a sublease with California Engineering for temporary office and lay down space related to the seismic retrofit of the Bay Bridge in substantial conformance with the terms and conditions described in the Term Sheet; and be it

FURTHER RESOLVED, That, as provided under Section 9 of the Transfer Rules, any final sublease with California Engineering shall be subject to the separate prior approval of the Authority, in its sole and absolute discretion.

CERTIFICATE OF SECRETARY

I hereby certify that I am the duly elected and acting Secretary of the Treasure Island Development Authority, a California nonprofit public benefit corporation, and that the above Resolution was duly adopted and approved by the Board of Directors of the Authority at a properly noticed meeting on December 8, 1999.

_____

John Elberling, Secretary

EXHIBIT A

TERM SHEET

Exhibit A - Proposed Terms for California Engineering Contractors

The following outlines the basic terms for a proposed sublease for lay down space on Treasure Island.

Subtenant: The tenant for the facility is California Engineering Contractors (CEC).

Premises: The Authority is considering the lease of not less than three acres and no more than five acres of land for lay down space. The Authority does not currently have control of any suitably sized sites. Thus, in order to execute a sub lease with CEC awarded the contract, the Authority would need to lease a site from the Navy and then sublease it to CEC. The proposed site is one square block area bounded by Avenue F to the West, Avenue H to the East, 11th Street to the North, and 9th Street to the South.

Permitted Use: CEC is proposing the following uses for the site:

- Temporary office complex comprised of several modular trailers coupled together;
- Delivery and storage location for fabricated steel used to retrofit the Bridge;
- Assembly site for workers on the retrofit project;
- Light vehicle maintenance for project support vehicles and equipment;
- Refueling of equipment and vehicles;
- Storage of equipment, such as Cranes, Boom Trucks, Forklifts, etc; and
- Reclassification of steel grit.

Term: Term of three years with the Authority retaining the right to terminate the lease with six months notice, if the site is needed to further long term redevelopment of the Island.

Rent: The proposed rent for the site would be $.15 per square foot or approximately $25,000 per month. The annual rent to the Authority would be approximately $300,000. CEC would be responsible for all utility costs, landscaping costs, security costs, and Common Area Maintenance (CAM) charges levied by the Navy.

Improvements: The costfor all improvements to the site, including costs associated with meeting Department of Building Inspection standards and bringing utilities to the site will be the responsibility of CEC.

Notes

AGENDA ITEM
Treasure Island Development Authority
City and County of San Francisco

Subject: Resolution Authorizing the Executive Director to Enter into a Sublease with San Francisco Little League

Agenda Item No. 8
Meeting of December 8, 1999

Contact/Phone: Annemarie Conroy, Executive Director
Stephen Proud, Director of Development
274-0660

SUMMARY OF PROPOSED ACTION:

Staff is requesting the Authority adopt a resolution which would allow the Executive Director to enter into a sublease with San Francisco Little league for the Little League Field located on Treasure Island.

BACKGROUND

On October 20th, 1999, the Authority authorized the Executive Director to enter into sole source negotiations with San Francisco Little League (SFLL) for the use of the Little League field located on Treasure Island. San Francisco Little League was referred to the Authority, following a meeting between Authority staff and Recreation & Parks staff, to explore the possibility of using the field for practice and games associated with the League.

The Little League field is located on the eastern side of Treasure Island, adjacent to the shoreline (see attached Exhibit). The field was built for use by Navy families and was constructed to meet the specifications of the Little League organization (e.g., dugouts, outfield fence, etc.). Since the closure of the base, the field has not been maintained for play and has fallen into disrepair.

Based on the authorization for sole source negotiations granted by the Authority, staff has been working to develop a sublease for the field (a copy of which is attached to the resolution). In general, SFLL is responsible for renovating the field to bring it to playable condition and to provide for the ongoing maintenance of the field. In exchange, SFLL receives preferential scheduling of the facility and the Authority waives rental payments.

As one condition of the lease, SFLL is required to make the field available for four priority user groups (identified by the Authority) when the field is not in use by SFLL. Staff believes that this creative arrangement will provide recreation opportunities for residents of Treasure Island that would other wise be unavailable due to the cost associated with upgrading and maintaining the facility. Based on an estimate by Rubicon Enterprises (which provide landscaping services to other portions of Treasure Island), the initial field improvement costs (excluding structures) is approximately $12,000. The ongoing maintenance expense is estimated to be about $9,000 per

year. Thus the total value of improvements and maintenance provided by SFLL over the term of the sublease is approximately $34,500.

The following outlines the general provisions of the sublease:

- As noted above, SFLL would have the first right to use the field for practices and games, but would make the field available to other users when not needed by SFLL. Four priority users, the Treasure Island Homeless Development Initiative, the Delancey Street Life Learning Academy, the Treasure Island Elementary School, and John Stewart residents, would be allowed to use the field at no charge on a space available basis. In addition, SFLL may allow third parties may use the field on space available basis; however, if SFLL charges a fee for that use, the fee must be approved by the Executive Director, and the fees must be used for the ongoing repair and maintenance of the facility.

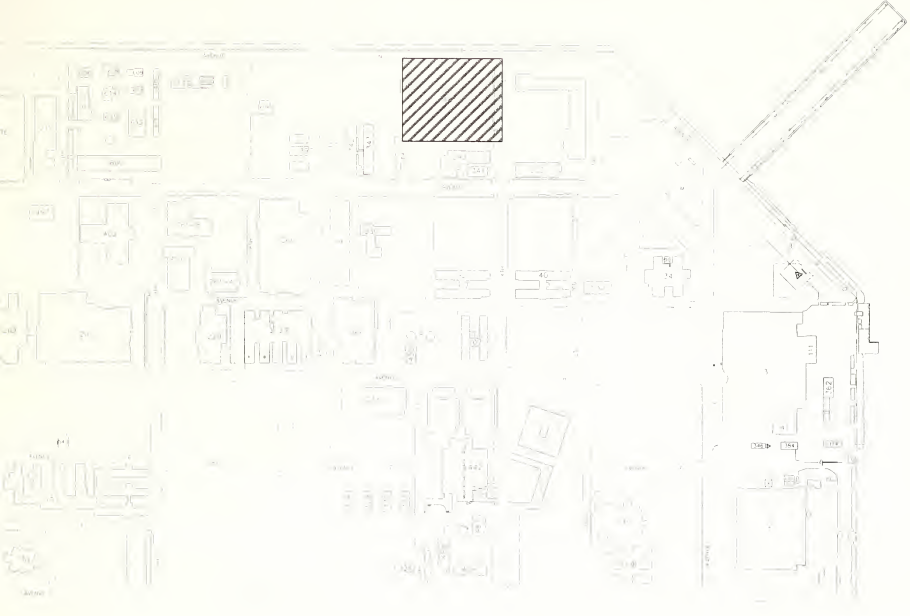
- SFLL is responsible for the renovation of the field including, but not be limited to, the resodding of the infield, the reseeding of the outfield, repair of the irrigation system, and general renovation of the dugouts, stands, and fences. In addition, SFLL is responsible for the ongoing maintenance and upkeep of the field.

- The maximum term of the sublease is for two and one half (2 ½) years with a right to terminate the lease six months earlier if the premises are needed in connection with the long term redevelopment of the Base.

- SFLL is not required to pay rent to the Authority so long as the field is renovated to playable condition and continually maintained, and that SFLL makes the field available to the users identified above. SFLL is responsible for all costs associated with utility service and the Common Area Maintenance (CAM) charges levied by the Navy.

- SFLL may use the parking areas immediately adjacent to the Little League field and the parking area directly across the street during games and practices.

Location of Little League Field - Treasure Island



[Sublease of Base Ball Field to San Francisco Little League]

APPROVING AND AUTHORIZING THE TREASURE ISLAND DEVELOPMENT AUTHORITY TO EXECUTE A SUBLEASE WITH THE SAN FRANCISCO LITTLE LEAGUE OF A BASE BALL FIELD ON TREASURE ISLAND.

WHEREAS, On May 2, 1997, the Board of Supervisors (the "Board") passed Resolution No. 380-97, authorizing the Mayor's Treasure Island Project Office to establish a nonprofit public benefit corporation known as the Treasure Island Development Authority (the "Authority") to act as a single entity focused on the planning, redevelopment, reconstruction, rehabilitation, reuse and conversion of former Naval Station Treasure Island (the "Base") for the public interest, convenience, welfare and common benefit of the inhabitants of the City and County of San Francisco; and,

WHEREAS, Under the Treasure Island Conversion Act of 1997, which amended Section 33492.5 of the California Health and Safety Code and added Section 2.1 to Chapter 1333 of the Statutes of 1968 (the "Act"), the California legislature (i) designated the Authority as a redevelopment agency under California redevelopment law with authority over the Base upon approval of the City's Board of Supervisors, and, (ii) with respect to those portions of the Base which are subject to the Tidelands Trust, vested in the Authority the authority to administer the public trust for commerce, navigation and fisheries as to such property; and,

WHEREAS, The Tidelands Trust prohibits the sale of trust property into private ownership, generally requires that Tidelands Trust property be accessible to the public and encourages public-oriented uses of trust property that, among other things, attract people to the waterfront, promote public recreation, protect habitat and preserve open space; and,

WHEREAS, In order to facilitate productive reuse and job creation on the Base, it may be beneficial for the Authority to lease or license property from the Navy and, in turn, sublease or sublicense such property to third-parties or use such property for municipal purposes; and,

WHEREAS, At its October 20, 1999 meeting, the Authority approved a resolution authorizing staff to negotiate a sublease with the San Francisco Little League ("Subtenant") for the use of a baseball field on Treasure Island (the "Premises"); and,

WHEREAS, The Authority staff and Subtenant have negotiated the terms and conditions of a sublease for a maximum term of two and one half years, with a right of termination six months earlier for the Authority if the Premises are needed in connection with long-term redevelopment of the Base, substantially in the form attached hereto as Exhibit A (the "Sublease"); and,

WHEREAS, No rent is due under the Sublease, but Subtenant is responsible for (i) renovating the field, dugouts, irrigation systems, stands and fences, (ii) paying 100% of the costs of maintaining and operating the Premises, and (iii) coordinating and scheduling the shared use of the Premises among the Little league and other Priority Users (as described further below); and,

WHEREAS, Under the Sublease, Subtenant is granted the exclusive right to use the Premises for San Francisco Little League games and practices at the times and dates set forth in Exhibit D to the Sublease, but, for all other times and dates (the "Available Times") Subtenant is required to make the Premises available to (i) member organizations of the Treasure Island Homeless Development Initiative, (ii) staff and students of the San Francisco Unified School District-Treasure Island Elementary School, (iii) staff and participants of the Delancey Street Life Learning Academy, and (iv) through the management offices of the John Stewart Company, the residents of Treasure Island (together, the "Priority Users") on a first come first served basis; and,

WHEREAS, To the extent such use does not interfere with the use of the Premises by the Priority Users during the Available Times, Subtenant may allow third parties to use the Premises for the purposes of playing or practicing baseball or softball, and Subtenant may

charge such third parties a use fee for use of the Premises, provided such use fee is approved in advance by the Authority's Executive Director, and provided further that any such use fees are spent by Subtenant on the maintenance and repair of the Premises; Now, therefore, be it

RESOLVED, That the Authority hereby approves and authorizes the Executive Director to enter into the Sublease with Subtenant; and, be it

FURTHER RESOLVED, That the Authority authorizes the Executive Director to enter into modifications to the Sublease (including, without limitation, the attachment or modification of exhibits) that are in the best interests of the Authority and the City, do not materially change the terms of the Sublease, and are necessary and advisable to effectuate the purpose and intent of this resolution.

CERTIFICATE OF SECRETARY

I hereby certify that I am the duly elected and acting Secretary of the Treasure Island Development Authority, a California nonprofit public benefit corporation, and that the above Resolution was duly adopted and approved by the Board of Directors of the Authority at a properly noticed meeting on December 8, 1999.

_____

John Elberling, Secretary

EXHIBIT A

Sublease

DRAFT
FOR DISCUSSION PURPOSES ONLY

SUBLEASE

between

THE TREASURE ISLAND DEVELOPMENT AUTHORITY

as Sublandlord

and

THE SAN FRANCISCO LITTLE LEAGUE,
a non-profit public benefit corporation
as Subtenant

For the Sublease of

A baseball field on former Naval Station Treasure Island
San Francisco, California

December __, 1999

TREASURE ISLAND SUBLEASE

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TREASURE ISLAND SUBLEASE

THIS SUBLEASE (the "Sublease"), dated as of this ___ of December, 1999, is by and between the Treasure Island Development Authority ("Sublandlord") and the San Francisco Little League, a non-profit public benefit corporation ("Subtenant"). From time to time, Sublandlord and Subtenant together shall be referred to herein as the "Parties".

This Sublease is made with reference to the following facts and circumstances:

A. The United States of America, acting by and through the Department of Navy ("Master Landlord") and Sublandlord entered into a lease dated _____, (the "Master Lease"), a copy of which is attached hereto as Exhibit A. Under the Master Lease, the Master Landlord leased to Sublandlord, among other things, a baseball field and related premises, as more particularly shown on the map attached hereto as Exhibit B (the "Premises"), on former Naval Station Treasure Island (the "Property").

B. Subtenant desires to sublet the Premises from Sublandlord and Sublandlord is willing to sublet the Premises to Subtenant on the terms and conditions contained in this Sublease.

NOW THEREFORE, Sublandlord and Subtenant hereby agree as follows:

1. PREMISES

1.1. Subleased Premises. Subject to the terms, covenants and conditions of this Sublease, Sublandlord subleases to Subtenant the Premises.

1.2. As Is Condition of Premises.

(a) **Inspection of Premises**. Subtenant represents and warrants that Subtenant has conducted a thorough and diligent inspection and investigation, either independently or through its officers, directors, or members, and their respective successors and assigns, and each of them, ("Subtenant's Agents") of the Premises and the suitability of the Premises for Subtenant's intended use. Subtenant is fully aware of the needs of its operations and has determined, based solely on its own investigation, that the Premises are suitable for its operations and intended uses. As part of its inspection of the Premises, Subtenant acknowledges its receipt and review of the Seismic Report and the Structural Report referenced in Section 1.2(c) below and the Joint Inspection Report referenced in Section 6 of the Master Lease.

(b) **As Is; Disclaimer of Representations**. Subtenant acknowledges and

agrees that the Premises are being subleased and accepted in their "AS IS, WITH ALL FAULTS" condition, without representation or warranty of any kind, and subject to all applicable laws, statutes, ordinances, resolutions, regulations, proclamations, orders or decrees of any municipal, county, state or federal government or other governmental or regulatory authority with jurisdiction over the Premises, or any portion thereof, whether currently in effect or adopted in the future and whether or not in the contemplation of the Parties, including without limitation the orders and citations of any regulatory authority with jurisdiction over life and safety issues concerning the Premises ("Laws") governing the use, occupancy, management, operation and possession of the Premises. Without limiting the foregoing, this Sublease is made subject to any and all covenants, conditions, restrictions, easements and other title matters affecting the Premises, or any portion thereof, whether or not of record. Subtenant acknowledges and agrees that neither Sublandlord, the City and County of San Francisco ("City"), nor any of their respective officers, directors, employees, agents, affiliates, subsidiaries, licensees or contractors , or their respective heirs, legal representatives, successors and assigns ("Sublandlord's Agents") have made, and Sublandlord hereby disclaims, any representations or warranties, express or implied, concerning (i) title or survey matters affecting the Premises, (ii) the physical, geological, seismological or environmental condition of the Premises, including, without limitation, the matters described in the Seismic Report (as defined below) (iii) the quality, nature or adequacy of any utilities serving the Premises, (iv) the feasibility, cost or legality of constructing any Alterations on the Premises if required for Subtenant's use and permitted under this Sublease, (v) the safety of the Premises, whether for the use of Subtenant or any other person, including Subtenant's Agents or Subtenant's clients, customers, vendors, invitees, guests, members, licensees, assignees or Subtenants ("Subtenant's Invitees"), or (vi) any other matter whatsoever relating to the Premises or their use, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose.

(c) **Seismic Report.** Without limiting Section 1.2 (b) above, Subtenant expressly acknowledges for itself and Subtenant's Agents that it received and read that certain report dated August 1995, entitled "*Treasure Island Reuse Plan: Physical Characteristics, Building and Infrastructure Conditions,*" prepared for the Office of Military Base Conversion, Department of City Planning, and the Redevelopment Agency of the City and County of San Francisco, (the "Seismic Report"), a copy of the cover page of which is attached hereto as Exhibit C. Subtenant has had an adequate opportunity to review the Seismic Report with expert consultants of its own choosing. The Seismic Report, among other matters, describes the conditions of the soils of the Property and points out that in the area of the Property where the Premises are located, an earthquake of magnitude 7 or greater is likely to cause the ground under and around the Premises to spread laterally to a distance of ten (10) or more feet and/or result in other risks. In that event, there is a significant risk that any structures or improvements located on or about the Premises, may fail structurally and collapse.

2. COMPLIANCE WITH MASTER LEASE

2.1. **Incorporation by Reference.** All of the terms and conditions of the Master Lease are hereby incorporated by reference into this Sublease as if fully set forth herein

2.2. **Conflict.** If any of the provisions of this Sublease conflict with any portion of the Master Lease as incorporated herein, then the terms of the Master Lease shall govern.

2.3. **Compliance with Master Lease**. Subtenant shall not do or permit to be done anything which would constitute a violation or a breach of any of the terms, conditions or provisions of the Master Lease or which would cause the Master Lease to be terminated or forfeited by virtue of any rights of termination reserved by or vested in the Master Landlord.

2.4. **Automatic Termination**. If the Master Lease terminates for any reason whatsoever, this Sublease shall automatically terminate and the Parties shall thereafter be relieved from all liabilities and obligations under this Sublease, except for liabilities and obligations which expressly survive termination of this Sublease. Subtenant acknowledges and agrees that it has reviewed the Master Lease, is aware of the circumstances upon which the Master Lease may be terminated and hereby assumes all risks associated with the automatic termination of this Sublease because of the termination of the Master Lease.

3. TERM

3.1. **Term of Sublease**. The term of this Sublease (the "Term") shall commence on January 1, 2000 (the "Commencement Date") and terminate on October 31, 2002 (the "Expiration Date"), unless earlier terminated as provided in this Sublease.

3.2. **Early Termination Right**.

(a) Sublandlord's Right of Early Termination. Sublandlord may elect, in its sole and absolute discretion, to terminate this Sublease as of June 1, 2002, by giving Subtenant written notice thereof by November 1, 2001 (the ("Early Termination Notice"). Upon a delivery by Sublandlord to Subtenant of such Early Termination Notice, the Expiration Date described in Section 3.1 above shall automatically be amended to be June 1, 2002.

(b) Subtenant's Right of Early Termination. Subtenant may elect, in its sole and absolute discretion, to terminate this Sublease prior to the Expiration Date by providing ninety (90) days prior written notice thereof to the Authority.

3.3. **Effective Date.** This Sublease shall become effective on the date (the "Effective Date") upon which (i) the Parties hereto have duly executed and delivered this Sublease and (ii) Sublandlord's Board of Directors has approved this Sublease.

4. CONSIDERATION

4.1. **Consideration.** Throughout the Term, the consideration for Subtenant's use of the Premises shall be comprised of the following: (i) Subtenant shall make the Required Improvements described in Section 7.1 below, (ii) Subtenant shall use the Premises for the public purposes described in Section 6 below, and for no other purposes, (iii) Subtenant shall pay any and all charges, costs and expenses related to its use, occupancy, operation or enjoyment of the Premises or any Alterations permitted thereon, including, without limitation, the cost of any utilities, taxes, insurance, maintenance, repairs, equipment or services, and the Common Area Maintenance Charges ("CAM Charge") assessed against the Premises by the Master Landlord, and (iv) Subtenant shall expend any Net Revenues on the improvement, upkeep or maintenance of the Premises, as provided in Section 6.4 below.

(a) For purposes of this Sublease "Net Revenues " shall mean any and all use fees, rentals, income, revenue, compensation or other consideration generated from Subtenant's use or operation of the Premises, after the payment of reasonable costs incurred in connection therewith; and in any event excluding revenues generated through the operation of the snack stand and sponsorship revenues.

(b) The Authority shall be entitled at any time and from time to time during the Term and within three (3) years after the Expiration Date or other termination of this Sublease, to inspect, examine, copy and audit all of Subtenant's books of account, records, cash receipts, tax returns and underlying tax preparation documents, financial statements and other pertinent data. The Authority shall also be entitled at the Authority's option, once during each lease year and once after the Expiration Date or other termination of this Sublease, to cause an independent audit to be performed by a certified public accountant designated by the Authority.

5. TAXES, ASSESSMENTS AND OTHER EXPENSES

5.1. **Taxes and Assessments, Licenses, Permit Fees and Liens.**

(a) **Payment Responsibility**. Subtenant shall pay any and all real and personal property taxes, including, but not limited to, possessory interest taxes, general and special assessments, excises, licenses, permit fees and other charges and impositions of every description levied on or assessed against the Premises, any Alterations, Subtenant's Personal Property, or Subtenant's use of the Premises or any Alterations during the Term. Subtenant shall make all such payments directly to the charging authority when due and payable and at least ten (10) days prior to delinquency. However, with respect to real property taxes and assessments

levied on or assessed against the Premises for which Sublandlord receives the tax bill directly from the taxing authority, Subtenant shall reimburse Sublandlord for payment of such sums immediately upon demand.

(b) **Taxability of Possessory Interest.** Without limiting the foregoing, Subtenant recognizes and agrees that this Sublease may create a possessory interest subject to property taxation and that Subtenant may be subject to the payment of property taxes levied on such interest.

(c) **No Liens**. Subtenant shall not allow or suffer a lien for any taxes payable by Subtenant hereunder to be imposed upon the Premises or upon any equipment or other property located thereon without discharging the same as soon as practicable, and in no event subsequent to delinquency.

(d) **Reporting Information**. Subtenant agrees to provide such information as Sublandlord may request to enable Sublandlord to comply with any possessory interest tax reporting requirements applicable to this Sublease.

5.2. **Other Expenses**. This is a "triple net" Sublease. Accordingly, Subtenant shall be responsible for any and all other charges, costs and expenses related to its use, occupancy, operation or enjoyment of the Premises or any Alterations permitted thereon, including, without limitation, the cost of any utilities, maintenance or services necessary for Subtenant's use and the amount of the CAM Charges. The amount of the CAM Charges for the Premises is currently set at the rate of $_____ per month. Subtenant shall pay the CAM Charges to Sublandlord on a monthly basis.

5.3. **Evidence of Payment**. Subtenant shall, upon Sublandlord's request, furnish to Sublandlord within ten (10) days after the date when any charges are due and payable, official receipts of the appropriate taxing authority or other evidence reasonably satisfactory to Sublandlord, evidencing payment thereof.

6. USE; COVENANTS TO PROTECT PREMISES

6.1. **Subtenant's Permitted Use**. Subject to the terms and conditions of this Sublease, Subtenant shall operate the Premises as a playing field for baseball and softball games and practices, and for related activities such as equipment storage and field maintenance.

6.2. **Subtenant's Access to the Premises**. The San Francisco Little league will have the right to use the Premises for its games and practices and related activities on the dates and at the times set forth in Exhibit D attached hereto (The SF Little league Schedule").

6.3. **Priority Users Access to the Premises**. For all other times and dates other than as set forth in the SF Little League Schedule (the "Available Times"), Subtenant shall make the Premises available first to (i) member organizations of the Treasure Island Homeless Development Initiative, (ii) staff and students of the San Francisco Unified School District-Treasure Island Elementary School, (iii) staff and participants of the Delancey Street Life Learning Academy, and (iv) through the management offices of the John Stewart Company, the residents of Treasure Island (together, the "Priority Users") on a first come first served basis. Subtenant shall meet and confer with each of the Priority Users and use its best efforts to establish with them mutually agreeable procedures for such Priority Users to reserve the Premises during the Available Times.

(a) Conditions to Priority Use. Subtenant may not charge any of the Priority Users a fee for the right to use the Premises during the Available Times. However, as a condition to their use of the Premises, the Priority Users shall be required to (i) execute a waiver and release form reasonably acceptable to Sublandlord and Subtenant, and (ii) abide by such reasonable rules regarding the use and care of the Premises as Sublandlord and Subtenant may mutually agree. If any Priority User fails to abide by such rules or to provide such waiver and release (either, a "Violation"), Subtenant may, after providing notice to Sublandlord, prohibit further use of the Premises by such Priority User until the Violation is cured.

6.4. **Other Users Access to the Premises**. To the extent such use does not interfere with the use of the Premises by the Priority Users during the Available Times, Subtenant may allow third parties to use the Premises for the purposes of playing or practicing baseball or softball. Subtenant may charge such third parties a use fee for use of the Premises, provided such use fee is approved in advance by the Sublandlord, and provided further that any such use fees and any other Net Revenues are spent by Subtenant on the maintenance and repair of the Premises.

6.5. **Scheduling**. Subtenant shall be responsible for coordinating and scheduling the shared use of the Premises pursuant to Sections 6.1-6.4 above.

6.6. **Easements**. This Sublease shall be subject to all outstanding easements and rights-of-way for location of any type of facility over, across, in, and upon the Premises or any portion thereof, and to the right of Master Landlord to grant such additional easements and rights-of-way over, across, in and upon the Premises as Master Landlord shall determine to be in the public interest ("Additional Easements"), provided that, as provided in Section 29 of the Master Lease, Master Landlord shall use its best efforts to minimize any interference with Subtenant's operations hereunder caused by the granting of any such Additional Easements and the granting of such Additional Easements shall be conditioned on the assumption by the grantee thereof of liability to Subtenant for such damages as Subtenant shall suffer for property destroyed or property rendered unusable on account of the grantee's exercise of its rights thereunder. There is hereby reserved to the holders of such Additional Easements as are presently outstanding or

which may hereafter be granted, to any workers officially engaged in the construction, installation, maintenance, operation, repair or replacement of facilities located thereon, and to any federal, state or local official engaged in the official inspection thereof, such reasonable rights of ingress and egress over the Premises as shall be necessary for the performance of their duties with regard to such facilities. To the best knowledge of the Mayor's Treasure Island Project Office, there are no existing Additional Easements or other encumbrances which would materially interfere with Subtenant's use of the Premises.

6.7. **No Interference with Navy Operations**. Subtenant shall not conduct operations, nor make any Alterations (as defined below), that would interfere with or otherwise restrict Master Landlord's operations or environmental clean-up or restoration actions by the Master Landlord, Sublandlord, the Environmental Protection Agency, the State of California or their contractors. Environmental clean-up, restoration or testing activities by these Parties shall take priority over the Subtenant's use of the Premises in the event of any conflict, provided, however, in such event, Master Landlord and Sublandlord shall use their best efforts to minimize any disruption of Subtenant's operation.

6.8. **No Unlawful Uses, Nuisances or Waste**. Without limiting the foregoing, Subtenant shall not use, occupy or permit the use or occupancy of any of the Premises in any unlawful manner or for any illegal purpose, or permit any offensive, noisy or hazardous use or any waste on or about the Premises. Subtenant shall take all precautions to eliminate any nuisances or hazards relating to its activities on or about the Premises. Subtenant shall not conduct any business, place any sales display, or advertise in any manner in areas outside the Premises or on or about the Property, other than as specifically permitted hereunder. Any advertising or sponsorship banners to be placed within the Premises shall be subject to the prior consent of the Sublandlord, which consent shall not be unreasonably withheld or delayed.

7. ALTERATIONS

7.1. **Required Alterations**. As partial consideration for this Sublease, Subtenant shall renovate the Premises to a playable conditions by constructing the alterations to the Premises described on Exhibit E attached hereto, including, without limitation, reseeding the outfield, repairing the irrigation system, installing a water meter to the reasonable satisfaction of the City's Public Utilities Commission staff, painting and repairing the dugouts, stands and fences and either repairing the existing bathroom facilities or installing a temporary portable toilet on a seasonal basis (the "Required Alterations").

7.2. **Other Alterations**. Subtenant shall not construct, install, make or permit to be made any alterations, installations or additions other than the Required Alteration (the "Other Alterations", and together with the Required Alterations, the "Alterations") in, to or about the Premises, without Sublandlord's prior written consent in each instance, which consent may given or withheld in Sublandlord's sole and absolute discretion. Subject to Sublandlord's consent as

provided above, any permitted Alterations shall be done at Subtenant's sole expense (i) in strict accordance with plans and specifications approved in advance by Sublandlord in writing, (ii) by duly licensed contractors or mechanics approved by Sublandlord or by program youths and parent volunteers under the supervision of qualified professionals, (iii) in a good and professional manner, (iv) in strict compliance with all Laws, and (v) subject to all other conditions that Sublandlord may reasonably impose. In no event shall the construction , installation or the making of any Alterations impair the use or operation of the Property, or any portion thereof, or Sublandlord's or Master Landlord's access thereto. Prior to the commencement of any work on the Premises to construct any permitted Alterations, Subtenant, at its sole expense, shall procure all required permits and approvals and shall promptly upon receipt deliver copies of all such documents to Sublandlord. No material change from the plans and specifications approved by Sublandlord may be made without Sublandlord's prior consent. Sublandlord and Sublandlord's Agents shall have the right to inspect the course of such construction at all times.

7.3. **Ownership of Alterations**. Any Alterations constructed on or affixed to the Premises by or on behalf of Subtenant pursuant to the terms and limitations of Section 7.1 above shall be and remain Subtenant's property during the Term. Upon the termination of this Sublease, Subtenant shall remove all such Alterations from the Premises in accordance with the provisions of Section 18 hereof, unless Sublandlord, at its sole option and without limiting any of the provisions of Section 7.1 above, requires that such Alterations remain on the Premises following the expiration or termination of this Sublease.

7.4. **Subtenant's Personal Property**. All furniture, furnishings and articles of movable personal property and equipment installed in the Premises by or for the account of Subtenant that can be removed without structural or other material damage to the Premises (all of which are herein called "Subtenant's Personal Property") shall be and remain the property of Subtenant and may be removed by it subject to the provisions of Section 18 hereof. Subtenant shall be solely responsible for providing any security or other protection of or maintenance to Subtenant's Personal Property.

8. REPAIRS AND MAINTENANCE

8.1. **Subtenant Responsible for Maintenance and Repair**. Subtenant assumes full and sole responsibility for the condition, operation, repair and maintenance and management of the Premises from and after the Commencement Date and shall keep the Premises in good condition and repair for regular use as a baseball field by the San Francisco Little League, the Priority Users, and any third-party users, as set forth in Section 6 above. Sublandlord shall not be responsible for the performance of any repairs, changes or alterations to the Premises, nor shall Sublandlord be liable for any portion of the cost thereof. If any portion of the Premises is damaged by any activities conducted by Subtenant or Subtenant's Agents or Subtenant's Invitees hereunder, Subtenant shall immediately, at its sole cost, repair all such damage and restore the Premises to its previous condition.

8.2. **Utilities**. Sublandlord shall provide the basic utilities and services described in the attached Exhibit F (the "Standard Utilities and Services") to the Premises, subject to the terms and conditions contained therein. Subtenant shall be responsible for furnishing, at its sole costs, any utilities or services other than or in excess of the Standard Utilities and Services that Subtenant may need for its use of the Premises. Subtenant shall pay, without set off or counterclaim, all amounts due and owing for such Standard Utilities and Services at the rates provided in and as otherwise set forth in Exhibit F.

8.3. **Trash**. Subtenant shall deposit all trash into designated containers at the Premises. Subtenant shall pay for the removal of trash from the designated containers.

8.4. **No Right to Repair and Deduct**. Subtenant expressly waives the benefit of any existing or future Laws or judicial or administrative decision that would otherwise permit Subtenant to make repairs or replacements at Sublandlord's expense, or to terminate this Sublease because of Sublandlord's failure to keep the Premises or any part thereof in good order, condition or repair, or to abate or reduce any of Subtenant's obligations hereunder on account of the Premises or any part thereof being in need of repair or replacement. Without limiting the foregoing, Subtenant expressly waives the provisions of California Civil Code Sections 1932, 1941 and 1942 or any similar Laws with respect to any right of Subtenant to terminate this Sublease and with respect to any obligations of Sublandlord hereunder or and any right of Subtenant to make repairs or replacements and deduct the cost thereof.

9. LIENS

Subtenant shall keep the Premises free from any liens arising out of any work performed, material furnished or obligations incurred by or for Subtenant. In the event Subtenant does not, within five (5) days following the imposition of any such lien, cause the lien to be released of record by payment or posting of a proper bond, Sublandlord shall have in addition to all other remedies provided herein and by law or equity the right, but not the obligation, to cause the same to be released by such means as it shall deem proper, including, but not limited to, payment of the claim giving rise to such lien. All such sums paid by Sublandlord and all expenses it incurs in connection therewith (including, without limitation, reasonable attorneys' fees) shall be payable to Sublandlord by Subtenant upon demand. Sublandlord shall have the right at all times to post and keep posted on the Premises any notices permitted or required by law or that Sublandlord deems proper for its protection and protection of the Premises from mechanics' and materialmen's liens. Subtenant shall give Sublandlord at least fifteen (15) days' prior written notice of the commencement of any repair or construction on any of the Premises.

10. COMPLIANCE WITH LAWS

10.1. **Compliance with Laws**. Subtenant shall promptly, at its sole expense, maintain

the Premises and Subtenant's use and operations thereon in strict compliance at all times with all present and future Laws, whether foreseen or unforeseen, ordinary as well as extraordinary, provided however, that Subtenant shall not be required to make repairs or structural changes to the Premises required solely to correct conditions affecting the Premises existing prior to the Commencement Date or not related to Subtenant's use of the Premises, unless the requirement for such changes is imposed as a result of any Alterations made or requested to be made by Subtenant. Such Laws shall include, without limitation, all Laws relating to health and safety and disabled accessibility including, without limitation, the Americans with Disabilities Act, 42 U.S.C.S. §§ 12101 et seq. and Title 24 of the California Code of Regulations, all present and future Environmental Laws (as defined in this Sublease below). No occurrence or situation arising during the Term, nor any present or future Law, whether foreseen or unforeseen, and however extraordinary, shall give Subtenant any right to seek redress against Sublandlord for failing to comply with any Laws. Subtenant waives any rights now or hereafter conferred upon it by any existing or future Law to compel Sublandlord to make any repairs to comply with any such Laws, on account of any such occurrence or situation.

10.2. **Regulatory Approvals**.

(a) **Responsible Party**. Subtenant understands and agrees that Subtenant's use of the Premises and construction of Alterations permitted hereunder may require authorizations, approvals or permits from governmental regulatory agencies with jurisdiction over the Premises. Subtenant shall be solely responsible for obtaining any and all such regulatory approvals, including without limitation any liquor permits or approvals. Subtenant shall not seek any regulatory approval without first obtaining the written consent of Sublandlord. Subtenant shall bear all costs associated with applying for, obtaining and maintaining any necessary or appropriate regulatory approval and shall be solely responsible for satisfying any and all conditions imposed by regulatory agencies as part of a regulatory approval. Any fines or penalties levied as a result of Subtenant's failure to comply with the terms and conditions of any regulatory approval shall be immediately paid and discharged by Subtenant, and Sublandlord shall have no liability, monetary or otherwise, for any such fines or penalties. Subtenant shall indemnify, protect, defend and hold harmless forever ('Indemnify") the Sublandlord and City, but not limited to, all of their respective officers, directors, employees , agents, affiliates, subsidiaries, licensees, contractors, boards, commissions, departments, agencies and other subdivisions and each of the persons acting by, through or under each of them, and their respective heirs, legal representatives, successors and assigns, and each of them (the "Indemnified Parties") against any and all claims, demands, losses, liabilities, damages, liens, injuries, penalties, fines, lawsuits and other proceedings, judgments and awards and costs and expenses, including, without limitation, reasonable attorneys' and consultants' fees and costs ("Losses") arising in connection with Subtenant's failure to obtain or comply with the terms and conditions of any regulatory approval.

10.3. **Compliance with Sublandlord's Risk Management Requirements**. Subtenant

shall not do anything, or permit anything to be done, in or about the Premises or any Alterations permitted hereunder that would create any unusual fire risk, and shall take commercially reasonable steps to protect Sublandlord from any potential premises liability. Subtenant shall faithfully observe, at its expense, any and all reasonable requirements of Sublandlord's Risk Manager with respect thereto and with the requirements of any policies of commercial general, all risk property or other policies of insurance at any time in force with respect to the Premises and any Alterations as required hereunder.

11. ENCUMBRANCES

11.1. Encumbrance By Subtenant. Notwithstanding anything to the contrary contained in this Sublease, Subtenant shall not under any circumstances whatsoever create any mortgage, deed of trust, assignment of rents, fixture filing, security agreement, or similar security instrument, or other lien or encumbrance or assignment or pledge of an asset as security in any manner against the Premises or Sublandlord's or Subtenant's interest under this Sublease.

12. DAMAGE OR DESTRUCTION

12.1. Damage or Destruction to the Premises. In the case of damage to or destruction of the Premises by earthquake, fire or any other casualty, not caused by Subtenant or Subtenant's Agents or Subtenant's Invitees, whether insured or uninsured, which prevents Subtenant from operating the Premises for the purposes stated herein and the cost of repairing such damage exceeds One Thousand Dollars ($1,000), Subtenant may either (i) terminate this Sublease upon thirty (30) days prior written notice, and upon any such termination Subtenant surrender the Premises in accordance with Section 18, in which case both Parties shall be relieved of any liability for such termination or for repairing such damage, or (ii), at its sole cost, promptly restore, repair, replace or rebuild the Premises to the condition the Premises were in prior to such damage or destruction, subject to any changes made in strict accordance with the requirements of Section 7.1 above. Under no circumstances shall Sublandlord have any obligation to repair, replace or rebuild the Premises in the event of such a casualty.

12.2. No Abatement in Rent. In the event of any damage or destruction to the Premises, and if neither party terminates this Sublease as provided in Section 12.1 above, there shall be no abatement in the consideration and any other sums payable hereunder.

12.3. Waiver. The Parties understand and agree that the foregoing provisions of this Section are intended to govern fully the rights and obligations of the Parties in the event of damage or destruction to the Premises or Alterations, and Sublandlord and Subtenant each hereby waives and releases any right to terminate this Sublease in whole or in part under Sections 1932.2 and 1933.4 of the Civil Code of California or under any similar Laws now or hereafter in effect, to the extent such rights are inconsistent with the provisions hereof.

13. ASSIGNMENT AND SUBLETTING

13.1. Restriction on Assignment and Subletting. Subtenant shall not directly or indirectly (including, without limitation, by merger, acquisition or other transfer of any controlling interest in Subtenant), voluntarily or by operation of Law, sell, assign, encumber, pledge or otherwise transfer any part of its interest in or rights with respect to the Premises, any Alterations or its interest in this Sublease, or permit any portion of the Premises to be occupied by anyone other than itself, or sublet any portion of the Premises, without Sublandlord's prior written consent in each instance, which Sublandlord may grant or withhold in its sole and absolute discretion.

14. DEFAULT; REMEDIES

14.1. Events of Default. Any of the following shall constitute an event of default ("Event of Default") by Subtenant hereunder:

(a) Consideration. Any failure to pay any sums due hereunder, including sums due for utilities and CAM Charges, within ten (10) days of written notice from Sublandlord that such sums are due;

(b) Covenants, Conditions and Representations. Any failure to perform or comply with any other covenant, condition or representation made under this Sublease, provided Subtenant shall have a period of thirty (30) days from the date of written notice from Sublandlord of such failure within which to cure such default under this Sublease, or, if such default is not capable of cure within such 30-day period, Subtenant shall have a reasonable period to complete such cure if Subtenant promptly undertakes action to cure such default within such 10-day period and thereafter diligently prosecutes the same to completion and uses its best efforts to complete such cure within ninety (90) days after the receipt of notice of default from Sublandlord.

(c) Bankruptcy. The appointment of a receiver to take possession of all or substantially all of the assets of Subtenant, or an assignment by Subtenant for the benefit of creditors, or any action taken or suffered by Subtenant under any insolvency, bankruptcy, reorganization, moratorium or other debtor relief act or statute, whether now existing or hereafter amended or enacted.

14.2. Remedies. Upon the occurrence of an Event of Default by Subtenant, Sublandlord shall have the following rights and remedies in addition to all other rights and remedies available to Sublandlord at Law or in equity:

(a) Terminate Sublease. The right to terminate Subtenant's right to possession of the Premises.

(b) **Sublandlord's Right to Cure Subtenant's Defaults**. If Subtenant defaults in the performance of any of its obligations under this Sublease, then Sublandlord may at any time thereafter with three (3) days prior written notice (except in the event of an emergency as determined by Sublandlord), remedy such Event of Default for Subtenant's account and at Subtenant's expense. Subtenant shall pay to Sublandlord promptly upon demand all sums expended by Sublandlord, or other costs, damages, expenses or liabilities reasonably incurred by Sublandlord, including, without limitation, reasonable attorneys' fees, in remedying or attempting to remedy such Event of Default. Subtenant's obligations under this Section shall survive the termination of this Sublease. Nothing herein shall imply any duty of Sublandlord to do any act that Subtenant is obligated to perform under any provision of this Sublease, and Sublandlord's cure or attempted cure of Subtenant's Event of Default shall not constitute a waiver of Subtenant's Event of Default or any rights or remedies of Sublandlord on account of such Event of Default.

15. RELEASE AND WAIVER OF CLAIMS; INDEMNIFICATION

15.1. Release and Waiver of Claims. Subtenant, on behalf of itself and Subtenant's Agents, covenants and agrees that the Indemnified Parties shall not be responsible for or liable to Subtenant for, and, to the fullest extent allowed by any Laws, Subtenant hereby waives all rights against the Indemnified Parties and releases them from, any and all Losses, including, but not limited to, incidental and consequential damages, relating to any injury, accident or death of any person or loss or damage to any property, in or about the Premises, from any cause whatsoever, including without limitation, partial or complete collapse of the Premises due to an earthquake or subsidence, except only to the extent such Losses are caused exclusively by the gross negligence or willful misconduct of the Indemnified Parties. Without limiting the generality of the foregoing:

(a) Subtenant expressly acknowledges and agrees that the consideration and other sums payable hereunder does not take into account any potential liability of the Indemnified Parties for any consequential or incidental damages including, but not limited to, lost profits arising out of disruption to Subtenant's uses hereunder. Sublandlord would not be willing to enter into this Sublease in the absence of a complete waiver of liability for consequential or incidental damages due to the acts or omissions of the Indemnified Parties , and Subtenant expressly assumes the risk with respect thereto. Accordingly, without limiting any indemnification obligations of Subtenant or other waivers contained in this Sublease and as a material part of the consideration for this Sublease, Subtenant fully RELEASES, WAIVES AND DISCHARGES forever any and all claims, demands, rights, and causes of action for consequential and incidental damages and covenants not to sue the Indemnified Parties for such damages arising out of this Sublease or the uses authorized hereunder, including, without limitation, any interference with uses conducted by Subtenant pursuant to this Sublease regardless of the cause.

(b) Without limiting any indemnification obligations of Subtenant or other waivers contained in this Sublease and as a material part of the consideration for this Sublease, Subtenant fully RELEASES, WAIVES AND DISCHARGES forever any and all claims, demands, rights, and causes of action against, and covenants not to sue the Indemnified Parties under any present or future Laws, statutes, or regulations, including, but not limited to, any claim for inverse condemnation or the payment of just compensation under the law of eminent domain, or otherwise at equity, in the event that Sublandlord terminates this Sublease because of such claim for inverse condemnation or eminent domain.

(c) As part of Subtenant's agreement to accept the Premises in its "As Is" condition as provided herein, and without limiting such agreement and any other waiver contained herein, Subtenant on behalf of itself and its successors and assigns, waives its right to recover from, and forever RELEASES , WAIVES AND DISCHARGES, the Indemnified Parties from any and all Losses, whether direct or indirect, known or unknown, foreseen and unforeseen, that may arise on account of or in any way be connected with the physical or environmental condition of the Premises and any related improvements or any Laws or regulations applicable thereto or the suitability of the Premises for Subtenant's intended use.

(d) Subtenant acknowledges that it will not be a displaced person at the time this Sublease is terminated, and Subtenant fully RELEASES, WAIVES AND DISCHARGES, the Indemnified Parties from any and all Losses and any and all claims , demands or rights against any of the Indemnified Parties under any present and future Laws, including, without limitation, any and all claims for relocation benefits or assistance form the Indemnified Parties under federal and state relocation assistance laws.

(e) Subtenant covenants and agrees never to file, commence, prosecute or cause to be filed, commenced or prosecuted against the Indemnified Parties any claim, action or proceeding based upon any claims, demands, causes of action, obligations, damages, losses, costs, expenses or liabilities of any nature whatsoever encompassed by the waivers and releases set forth in this Section 15.1.

(f) In executing these waivers and releases, Subtenant has not relied upon any representation or statement other than as expressly set forth herein.

(g) Subtenant had made such investigation of the facts pertaining to these waivers and releases it deems necessary and assumes the risk of mistake with respect to such facts. These waivers and releases are intended to be final and binding on Subtenant regardless of any claims of mistake.

(h) In connection with the foregoing releases, Subtenant acknowledges that it is familiar with Section 1542 of the California Civil Code, which reads:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

Subtenant acknowledges that the releases contained herein includes all known and unknown, disclosed and undisclosed, and anticipated and unanticipated claims. Subtenant realizes and acknowledges that it has agreed upon this Sublease in light of this realization and, being fully aware of this situation, it nevertheless intends to waive the benefit of Civil Code Section 1542, or any statute or other similar law now or later in effect. The waivers and releases contained herein shall survive any termination of this Sublease.

15.2. **Subtenant's Indemnity**. Subtenant, on behalf of itself and Subtenant's Agents, shall Indemnify the Indemnified Parties from and against any and all Losses arising out Subtenant's use of the Premises, including, but not limited to, (a) any damage to or destruction of any property owned by or in the custody of Subtenant or Subtenant's Agents, (b) any accident, injury to or death of a person, including, without limitation, Subtenant's Agents and Subtenant's Invitees, howsoever or by whomsoever caused, occurring in, on or about the Premises during the course of Subtenant's use of the Premises,(c) any default by Subtenant in the observation or performance of any of the terms, covenants or conditions of this Sublease to be observed or performed on Subtenant's part; (d) any construction or other work undertaken by Subtenant on or about the Premises whether before or during the Term of this Sublease; or (f) any acts, omissions or negligence of Subtenant, Subtenant's Agents or Subtenant's Invitees, except to the extent that such Indemnity is void or otherwise unenforceable under any applicable Laws in effect on or validly retroactive to the date of this Sublease and further except only to the extent such Losses are caused by the gross negligence and intentional wrongful acts and omissions of the Indemnified Parties. For purposes of this Section 15.2, Subtenant's Invitees shall not include the Priority Users. The foregoing Indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and Sublandlord's costs of investigating any Loss. Subtenant specifically acknowledges and agrees that it has an immediate and independent obligation to defend Sublandlord and the other Indemnified Parties from any claim which actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to Subtenant by Sublandlord and continues at all times thereafter. Subtenant's obligations under this Section shall survive the expiration or sooner termination of this Sublease.

16. INSURANCE

16.1. **Subtenant's Insurance**. Subtenant shall procure and maintain throughout the Term of this Sublease and pay the cost thereof the following insurance:

(a) **Public Liability and Other Insurance**. Subtenant shall at all times, at its cost, also maintain insurance for the mutual benefit of Sublandlord and Subtenant against claims

for personal injury under a policy of commercial general liability insurance, including without limitation, claims for bodily injury , property damage or employer's liability occurring in or upon the Premises in an amount not less than $1,000,000 combined single limit. Such insurance shall provide coverage at least as broad as provided under Insurance Service Form Number CG-00-01-11-88.

(b) [Describe other policies]

16.2. **General Requirements**. All insurance provided for under this Sublease shall be effected under valid enforceable policies issued by insurers of recognized responsibility and reasonably approved by Sublandlord.

(a) Should any of the required insurance be provided under a claims-made form, Subtenant shall maintain such coverage continuously throughout the term hereof and, without lapse, for a period of three (3) years beyond the expiration or termination of this Sublease, to the effect that, should occurrences during the Term give rise to claims made after expiration or termination of this Sublease, such claims shall be covered by such claims-made policies.

(b) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general aggregate limit shall double the occurrence or claims limits specified above.

(c) All liability insurance policies shall be endorsed to provide the following:

(i) Cover Subtenant as the insured and the Sublandlord and the Master Landlord as additional insureds.

(ii) That such policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of this Sublease, and that insurance applies separately to each insured against whom claim is made or suit is brought. Such policies shall also provide for severability of interests and that an act or omission of one of the named insureds which would void or otherwise reduce coverage shall not reduce or void the coverage as to any insured, and shall afford coverage for all claims based on acts, omissions, injury or damage which occurred or arose (or the onset of which occurred or arose) in whole or in part during the policy period.

(iii) All policies shall be endorsed to provide thirty (30) days' advance written notice to Sublandlord of cancellation, non-renewal or reduction in coverage, mailed to the address(es) for Sublandlord set forth in the Basic Sublease Information.

16.3. **Proof of Insurance**. Subtenant shall deliver to Sublandlord certificates of insurance in form and with insurers satisfactory to Sublandlord, evidencing the coverages required hereunder, on or before the Commencement Date, together with complete copies of the policies promptly upon Sublandlord's request, and Subtenant shall provide Sublandlord with certificates or policies thereafter at least thirty (30) days before the expiration dates of expiring policies. **[As to the insurance required pursuant to Section 16.1(b)(1) above, such certificate shall state, among other things, that such insurance coverage includes and shall cover Subtenant's indemnity obligations under Section 15.2 above.]** In the event Subtenant shall fail to procure such insurance, or to deliver such policies or certificates, Sublandlord may, at its option, procure the same for the account of Subtenant, and the cost thereof shall be paid to Sublandlord within five (5) days after delivery to Subtenant of bills therefor.

16.4. **No Limitation on Indemnities**. Subtenant's compliance with the provisions of this Section shall in no way relieve or decrease Subtenant's indemnification obligations herein or any of Subtenant's other obligations or liabilities under this Sublease.

16.5. **Lapse of Insurance**. Notwithstanding anything to the contrary in this Sublease, Sublandlord may elect in Sublandlord's sole and absolute discretion to terminate this Sublease upon the lapse of any required insurance coverage by written notice to Subtenant.

16.6. **Subtenant's Personal Property**. Subtenant shall be responsible, at its election and expense, for separately insuring Subtenant's Personal Property.

17. ACCESS BY SUBLANDLORD

17.1. **Access to Premises by Sublandlord**.

(a) **General Access**. Sublandlord reserves for itself and Sublandlord's Agents, the right to enter the Premises and any portion thereof at all reasonable times upon not less than twenty-four (24) hours oral or written notice to Subtenant (except in the event of an emergency) for any purpose.

(b) **Emergency Access**. In the event of any emergency, as determined by Sublandlord, Sublandlord may, at its sole option and without notice, enter the Premises and alter or remove any Alterations or Subtenant's Personal Property on or about the Premises. Sublandlord shall have the right to use any and all means Sublandlord considers appropriate to gain access to any portion of the Premises in an emergency. In such case, Sublandlord shall not be responsible for any damage or injury to any such property, nor for the replacement of any such property and any such emergency entry shall not be deemed to be a forcible or unlawful entry onto or a detainer of, the Premises, or an eviction, actual or constructive, of Subtenant from the Premises or any portion thereof.

(c) **No Liability**. Sublandlord shall not be liable in any manner, and Subtenant hereby waives any claims, for any inconvenience, disturbance, loss of business, nuisance or other damage arising out of Sublandlord's entry onto the Premises, except damage resulting directly and exclusively from the gross negligence or willful misconduct of Sublandlord or Sublandlord's Agents and not contributed to by the acts, omissions or negligence of Subtenant, Subtenant's Agents or Subtenant's Invitees.

17.2. **Access to Premises by Master Landlord**. Subtenant acknowledges and agrees that Master Landlord shall have all of the rights of access to the Premises described in the Master Lease.

18. SURRENDER

18.1. **Surrender of the Premises**. Upon the termination of this Sublease, Subtenant shall surrender to Sublandlord the Premises in good condition, ordinary wear and tear excepted, and free and clear of all liens, easements and other Encumbrances created or suffered by, through or under Subtenant. On or before any termination hereof, Subtenant shall, at its sole cost, remove any and all of Subtenant's Personal Property from the Premises and demolish and remove any and all Alterations from the Premises (except for any Alterations that Sublandlord agrees are to remain part of the Premises pursuant to the provisions of Section 7.4 above). In addition, Subtenant shall, at its sole expense, repair any damage to the Premises resulting from the removal of any such items and restore the Premises to their condition immediately prior to the presence of any Alterations. In connection therewith, Subtenant shall obtain any and all necessary permits and approvals, including, without limitation, any environmental permits, and execute any manifests or other documents necessary to complete the demolition, removal or restoration work required hereunder. Subtenant's obligations under this Section shall survive the termination of this Sublease. Any items of Subtenant's Personal Property remaining on or about the Premises after the termination of this Sublease may, at Sublandlord's option and after thirty (30) days written notice to Subtenant, be deemed abandoned and in such case Sublandlord may dispose of such property in accordance with Section 1980 et seq. of the California Civil Code or in any other manner allowed by Law.

If Subtenant fails to surrender the Premises to Sublandlord upon the termination of this Sublease as required by this Section, Subtenant shall Indemnify Sublandlord against all Losses resulting therefrom, including, without limitation, Losses made by a succeeding Subtenant resulting from Subtenant's failure to surrender the Premises.

19. HAZARDOUS MATERIALS

19.1. **No Hazardous Materials**. Subtenant covenants and agrees that neither Subtenant nor any of Subtenant's Agents or Subtenant's Invitees shall cause or permit any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any

federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment, including, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Sections 9601 et seq.) or pursuant to Section 25281 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the structure of any existing improvements on the Premises, or are naturally occurring substances on, in or about the Premises; and petroleum, including crude oil or any fraction thereof, and natural gas or natural gas liquids ("Hazardous Material") to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises or transported to or from the Premises without the prior written approval of Sublandlord, which approval may be withheld in Sublandlord's sole and absolute discretion. Subtenant shall immediately notify Sublandlord if and when Subtenant learns or has reason to believe there has been any release of Hazardous Material in, on or about the Premises . Sublandlord may from time to time request Subtenant to provide adequate information for Sublandlord to determine that any Hazardous Material permitted hereunder is being handled in compliance with all applicable federal, state or local Laws or policies relating to Hazardous Material (including, without limitation, its use, handling, transportation, production, disposal, discharge or storage) or to human health and safety, industrial hygiene or environmental conditions in, on, under or about the Premises and any other property, including, without limitation, soil, air and groundwater conditions ("Environmental Laws"), and Subtenant shall promptly provide all such information. Sublandlord and Sublandlord's Agents shall have the right to inspect the Premises for Hazardous Material and compliance with the provisions hereof at all reasonable times upon reasonable advance oral or written notice to Subtenant (except in the event of an emergency). Without limiting the foregoing, Subtenant acknowledges and agrees that it shall be bound by and will comply with the environmental protection provisions provided for in Section 13 of the Master Lease.

19.2. **Subtenant's Environmental Indemnity**. If Subtenant breaches any of its obligations contained in Section 19.1 above, or, if any act or omission or negligence of Subtenant or any of Subtenant's Agents or Subtenant's Invitees results in any spilling, leaking, pumping, pouring, emitting, discharging, injecting, escaping, leeching or dumping ("Release") of Hazardous Material in, on, under or about the Premises or the Property, without limiting Subtenant's general Indemnity contained in Section 15.2 above, Subtenant, on behalf of itself and Subtenant's Agents, shall Indemnify the Indemnified Parties, and each of them, from and against all any and all enforcement, investigation, remediation or other governmental or regulatory actions, agreements or orders threatened, instituted or completed pursuant to any Environmental Laws together with any and all Losses made or threatened by any third party against Sublandlord, Sublandlord's Agents, or the Premises, relating to damage, contribution, cost recovery compensation, loss or injury resulting from the presence, Release or discharge of any Hazardous Materials, including, without limitation, Losses based in common law, investigation

and remediation costs, fines, natural resource damages, damages for decrease in value of the Premises, the loss or restriction of the use or any amenity of the Premises and attorneys' fees and consultants' fees and experts' fees and costs ("Hazardous Materials Claims") arising during or after the Term of this Sublease and relating to such Release. The foregoing Indemnity includes, without limitation, all costs associated with the investigation and remediation of Hazardous Material and with the restoration of the Premises or the Property to its prior condition including, without limitation, fines and penalties imposed by regulatory agencies, natural resource damages and losses, and revegetation of the Premises or other Sublandlord property. Without limiting the foregoing, if Subtenant or any of Subtenant's Agents or Subtenant's Invitees, causes or permits the Release of any Hazardous Materials in, on, under or about the Premises or the Property, Subtenant shall, immediately, at no expense to Sublandlord, take any and all appropriate actions to return the Premises or other Sublandlord property affected thereby to the condition existing prior to such Release and otherwise investigate and remediate the Release in accordance with all Environmental Laws. Subtenant shall provide Sublandlord with written notice of and afford Sublandlord a full opportunity to participate in any discussions with governmental regulatory agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree, permit, approvals, or other compromise or proceeding involving Hazardous Material.

19.3. **Acknowledgment of Receipt of EBS and FOSL Reports.** Subtenant hereby acknowledges for itself and Subtenant's Agents that, prior to the execution of this Sublease, it has received and reviewed the Environmental Baseline Survey ("EBS") and the Finding of Suitability to Lease ("FOSL") described in Section 7 of the Master Lease.

20. GENERAL PROVISIONS

20.1. **Notices**. Except as otherwise expressly provided in this Sublease, any notice given hereunder shall be effective only in writing and given by delivering the notice in person, or by sending it first class mail or certified mail with a return receipt requested or reliable commercial overnight courier, return receipt requested, with postage prepaid as follows:

Notice Address of Sublandlord	Treasure Island Development Authority Treasure Island Project Office 401 Palm Avenue Building 1, Room 237 Treasure Island Attn: Executive Director Fax No.: 415-274-0662
with a copy to:	Office of the City Attorney Fox Plaza 1390 Market Street, 6th Floor San Francisco, CA 94102

Attn: Michael S. Cohen
Fax No.: (415) 554-3808

Notice Address of Subtenant: San Francisco Little League

_____

_____

_____

Notice Address of Master Landlord: Commanding Officer (Code 24)
Engineering Field Activity West
Naval Facilities Engineering Command
900 Commodore Drive
San Bruno, California 94066

Any Party hereunder may designate a new address for notice purposes hereunder at least ten (10) days prior to the effective date of such change. Any notice hereunder shall be deemed to have been given two (2) days after the date when it is mailed if sent by first class or certified mail, one day after the date it is made, if sent by commercial overnight carrier, or upon the date personal delivery is made, and any refusal by either Party to accept the attempted delivery of any notice, if such attempted delivery is in compliance with this Section 20.1 and applicable Laws, shall be deemed receipt of such notice..

20.2. **No Implied Waiver**. No failure by Sublandlord to insist upon the strict performance of any obligation of Subtenant under this Sublease or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues, no acceptance of full or partial payment for any sums due hereunder during the continuance of any such breach, and no acceptance of the keys to or possession of the Premises prior to the expiration of the Term by any Agent of Sublandlord, shall constitute a waiver of such breach or of Sublandlord's right to demand strict compliance with such term, covenant or condition or operate as a surrender of this Sublease. No express written waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision hereof shall not be deemed to be a waiver of a subsequent default or performance. The consent of Sublandlord given in any instance under the terms of this Sublease shall not relieve Subtenant of any obligation to secure the consent of Sublandlord in any other or future instance under the terms of this Sublease.

20.3. **Amendments**. Neither this Sublease nor any term or provisions hereof may be changed, waived, discharged or terminated, except by a written instrument signed by the Parties hereto.

20.4. **Authority**. If Subtenant signs as a corporation, a partnership or a limited liability company, each of the persons executing this Sublease on behalf of Subtenant does hereby covenant and warrant that Subtenant is a duly authorized and existing entity, that Subtenant has and is qualified to do business in California, that Subtenant has full right and authority to enter into this Sublease, and that each and all of the persons signing on behalf of Subtenant are authorized to do so. Upon Sublandlord's request, Subtenant shall provide Sublandlord with evidence reasonably satisfactory to Sublandlord confirming the foregoing representations and warranties. Without limiting the generality of the foregoing, Subtenant represents and warrants that it has full power to make the waivers and releases , indemnities and the disclosure set forth herein, and that it has received independent legal advice from its attorney as to the advisability of entering into a sublease containing those provisions and their legal effect.

20.5. **Joint and Several Obligations**. The word "Subtenant" as used herein shall include the plural as well as the singular. If there is more than one Subtenant, the obligations and liabilities under this Sublease imposed on Subtenant shall be joint and several.

20.6. **Interpretation of Sublease**. The captions preceding the articles and sections of this Sublease and in the table of contents have been inserted for convenience of reference only and such captions shall in no way define or limit the scope or intent of any provision of this Sublease. This Sublease has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein and shall be interpreted to achieve the intents and purposes of the Parties, without any presumption against the party responsible for drafting any part of this Sublease. Provisions in this Sublease relating to number of days shall be calendar days, unless otherwise specified, provided that if the last day of any period to give notice, reply to a notice or to undertake any other action occurs on a Saturday, Sunday or a bank or Sublandlord holiday, then the last day for undertaking the action or giving or replying to the notice shall be the next succeeding business day. Use of the word "including" or similar words shall not be construed to limit any general term, statement or other matter in this Sublease, whether or not language of non-limitation, such as "without limitation" or similar words, are used. Unless otherwise provided herein, whenever the consent of Sublandlord is required to be obtained by Subtenant hereunder, Sublandlord may give or withhold such consent in its sole and absolute discretion.

20.7. **Successors and Assigns**. Subject to the provisions of Section 13, the terms, covenants and conditions contained in this Sublease shall bind and inure to the benefit of Sublandlord and Subtenant and, except as otherwise provided herein, their personal representatives and successors and assigns; provided, however, that upon any transfer by Sublandlord (or by any subsequent Sublandlord) of its interest in the Premises as lessee, including any transfer by operation of Law, Sublandlord (or any subsequent Sublandlord) shall be relieved from all subsequent obligations and liabilities arising under this Sublease subsequent to such transfer.

20.8. Brokers. Neither party has had any contact or dealings regarding the leasing of the Premises, or any communication in connection therewith, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the Sublease contemplated herein. In the event that any broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes a claim shall be responsible for such commission or fee and shall Indemnify the other party from any and all Losses incurred by the indemnified party in defending against the same. The provisions of this Section shall survive any termination of this Sublease.

20.9. Severability. If any provision of this Sublease or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Sublease, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Sublease shall be valid and be enforceable to the fullest extent permitted by Law.

20.10. Governing Law. This Sublease shall be construed and enforced in accordance with the Laws of the State of California and the federal government.

20.11. Entire Agreement. This instrument (including the exhibits hereto, which are made a part of this Sublease) contains the entire agreement between the Parties and supersedes al prior written or oral negotiations, discussions, understandings and agreements. The Parties further intend that this Sublease shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts of this Sublease and any changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Sublease. Subtenant hereby acknowledges that neither Sublandlord nor Sublandlord's Agents have made any representations or warranties with respect to the Premises or this Sublease except as expressly set forth herein, and no rights, easements or licenses are or shall be acquired by Subtenant by implication or otherwise unless expressly set forth herein.

20.12. Attorneys' Fees. In the event that either Sublandlord or Subtenant fails to perform any of its obligations under this Sublease or in the event a dispute arises concerning the meaning or interpretation of any provision of this Sublease, the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights hereunder (whether or not such action is prosecuted to judgment), including, without limitation, court costs and reasonable attorneys' fees.

20.13. Time of Essence. Time is of the essence with respect to all provisions of this Sublease in which a definite time for performance is specified.

20.14. Cumulative Remedies. All rights and remedies of either party hereto set forth in this Sublease shall be cumulative, except as may otherwise be provided herein.

20.15. Survival of Indemnities. Termination of this Sublease shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Sublease, nor shall it affect any provision of this Sublease that expressly states it shall survive termination hereof. Subtenant specifically acknowledges and agrees that, with respect to each of the indemnities contained in this Sublease, Subtenant has an immediate and independent obligation to defend Sublandlord and the other Indemnified Parties from any claim which actually or potentially falls within the indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to Subtenant by Sublandlord and continues at all times thereafter.

20.16. Relationship of Parties. Sublandlord is not, and none of the provisions in this Sublease shall be deemed to render Sublandlord, a partner in Subtenant's business, or joint venturer or member in any joint enterprise with Subtenant. This Sublease is not intended nor shall it be construed to create any third party beneficiary rights in any third party, unless otherwise expressly provided. The granting of this Sublease by Sublandlord does not constitute authorization or approval by Sublandlord of any activity conducted by Subtenant on, in or relating to the Premises.

20.17. Recording. Subtenant agrees that it shall not record this Sublease nor any memorandum or short form hereof in the official records of any county.

20.18. Non-Liability of Indemnified Parties' officials, employees and Agents. No elective or appointive board, commission, member, officer or employee of any of the Indemnified Parties shall be personally liable to Subtenant, its successors and assigns, in the event of any default or breach by Sublandlord or for any amount which may become due to Subtenant, its successors and assigns, or for any obligation of Sublandlord under this Agreement.

20.19. No Discrimination. Subtenant shall comply with the non-discrimination provisions of Section 19.1 of the Master Lease, including, without limitation, posting all notices required therein.

20.20. Counterparts. This Sublease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

20.21. Master Landlord's Consent. This Sublease is expressly conditioned upon receipt of the written consent of Master Landlord

21. SPECIAL PROVISIONS

21.1. **Signs**. Subtenant agrees that it will not erect or maintain, or permit to be erected or maintained, any signs, notices or graphics upon or about the Premises which are visible in or from public corridors or other portions of any common areas of the Premises or from the exterior of the Premises, without Sublandlord's prior written consent, which shall not be unreasonably withheld or delayed.

21.2. **Non-Discrimination**.

(a) Covenant Not to Discriminate. In the performance of this Sublease, Subtenant covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with, Subtenant in any of Subtenant's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Subtenant.

(b) Subleases and Other Subcontracts. Subtenant shall include in all Subleases and other subcontracts relating to the Premises a non-discrimination clause applicable to such Subtenant or other subcontractor in substantially the form of subsection (a) above. In addition, Subtenant shall incorporate by reference in all subleases and other subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all Subtenants and other subcontractors to comply with such provisions. Subtenant's failure to comply with the obligations in this subsection shall constitute a material breach of this Sublease.

(c) Non-Discrimination in Benefits. Subtenant does not as of the date of this Sublease and will not during the Term, in any of its operations in San Francisco or where the work is being performed for the City or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(d) HRC Form. Subtenant shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights

Commission (the "HRC").

(e) Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of City property are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Subtenant shall comply fully with and be bound by all of the provisions that apply to this Sublease under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Subtenant understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of $50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Sublease may be assessed against Subtenant and/or deducted from any payments due Subtenant.

21.3. No Relocation Assistance; Waiver of Claims. Subtenant acknowledges that it will not be a displaced person at the time this Sublease is terminated or expires by its own terms, and Subtenant fully RELEASES, WAIVES AND DISCHARGES forever any and all Claims against, and covenants not to sue, Sublandlord, its departments, commissions, officers, directors and employees, and all persons acting by, through or under each of them, under any laws, including, without limitation, any and all claims for relocation benefits or assistance from Sublandlord under federal and state relocation assistance laws (including, but not limited to, California Government Code Section 7260 et seq.), except as otherwise specifically provided in this Sublease with respect to a Taking.

21.4. MacBride Principles - Northern Ireland. The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages then to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1, et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Subtenant acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

21.5. Tropical Hardwood Ban. The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood or tropical hardwood product.

21.6. Conflicts of Interest. Subtenant states that it is familiar with the provisions of Section 8.105 and 8.106 of the San Francisco Charter and certifies that it knows of no facts which would constitute a violation of such provisions. Subtenant further certifies that it has made a complete disclosure to the Sublandlord of all facts bearing on any possible interests, direct or indirect, which Subtenant believes any officer or employee of the Sublandlord presently has or will have in this Sublease or in the performance thereof or in any portion of the profits thereof. Willful failure by Subtenant to make such disclosure, if any, shall constitute grounds for

the Sublandlord's termination and cancellation of this Sublease.

21.7. **Burma (Myanmar) Business Prohibition**. Subtenant is not the government of Burma (Myanmar), a person or business entity organized under the laws of Burma (Myanmar) or a "prohibited person or entity" as defined in Section 12J.2(G) of the San Francisco Administrative Code. Sublandlord reserves the right to terminate this Sublease for default if Subtenant violates the terms of this clause. Chapter 12J of the San Francisco Administrative Code is hereby incorporated by reference as though fully set forth herein. The failure of Subtenant to comply with any of its requirements shall be deemed a material breach of this Sublease. In the event Subtenant fails to comply in good faith with any of the provisions of Chapter 12J of the San Francisco Administrative Code, Subtenant shall be liable for liquidated damages for each violation in an amount equal to Subtenant's net profit under this Sublease, or 10% of the total amount of the Sublease, or $1,000, whichever is greatest. Subtenant acknowledges and agrees the liquidated damages assessed shall be payable to the Sublandlord upon demand and may be setoff against any moneys due to the Subtenant from this Sublease.

21.8. **Prevailing Wages for Construction Work**. Subtenant agrees that to the extent any person performing labor in the construction of the Alterations required under Section 7 [Alterations] is paid wages for such labor, such person shall be paid not less than the highest prevailing rate of wages and that Subtenant shall include, in any contract for construction of such improvements, a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. Subtenant further agrees that, as to the construction of such improvements under this Sublease, Subtenant shall comply with all the provisions of subsection (b) of San Francisco Charter Section A7.204 and Sections 6.33 through 6.45 of the San Francisco Administrative Code that relate to payment of prevailing wages. Subtenant shall require any contractor to provide, and shall deliver to Sublandlord every two weeks during any construction period, certified payroll reports with respect to all persons performing labor in the construction of any of the required alterations. Notwithstanding the foregoing, Subtenant shall not be required to pay wages to youths/and or adults performing labor on a volunteer basis for the San Francisco Little League.

21.9. **Prohibition of Tobacco Advertising**. Subtenant acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on any real property owned by or under the control of the Authority or the City, including the Premises and the Property. This prohibition includes the placement of the name of a company producing selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This prohibition does not apply to any advertisement sponsored by a state, local or nonprofit entity designed to communication the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.

Sublandlord and Subtenant have executed this Sublease in triplicate as of the date first

written above.

SUBTENANT:

_____,
a 501(c)(3) non-profit corporation

By:
Its: _____

SUBLANDLORD:
Treasure Island Development Authority

By: _____
Its: _____

Approved as to Form:

_____
Deputy City Attorney

EXHIBIT A

MASTER LEASE

EXHIBIT B

DIAGRAM OF THE PREMISES

EXHIBIT C

COVER PAGE OF THE SEISMIC REPORT

EXHIBIT D-1

LITTLE LEAGUE SCHEDULE

Times for exclusive use of Premises by San Francisco Little League:

1. January 15-30, February, March, April, May and June 1-15:
- Monday-Friday: 3:00 to sunset
- Saturday and Sunday: All Day

2. June 15-July 31:
- Monday-Friday: Limited use for occasional practices (specific times to be determined)
- Saturday and Sunday: Limited use for tryouts and tournament games (specific times to be determined)

3. August:
- No play

4. September and October:
- Monday-Friday: 3:00 to sunset
- Saturday and Sunday: All Day

5. November, December, January 1-15:
- No play.

EXHIBIT D-2

Available Times for use by Priority Groups:

6. January 15-30, February, March, April, May and June 1-15:
- Monday-Friday: Sunrise to 3:00 p.m.
- Saturday and Sunday: No Play

7. June 15-July 31:
- Monday-Friday: Sunrise to Sunset, subject to limited use for occasional Little League practices (specific times to be determined)
- Saturday and Sunday: Sunrise to Sunset, subject to limited use for Little League tryouts and tournament games (specific times to be determined)

8. August:
- Sunrise to Sunset

9. September and October:
- Monday-Friday: Sunrise to 3:00 p.m.
- Saturday and Sunday: No Play

10. November, December, January 1-15:
- Sunrise to Sunset

EXHIBIT E

REQUIRED ALTERATIONS

EXHIBIT F

UTILITIES AND SERVICES AND RATES

Notes

AGENDA ITEM
Treasure Island Development Authority
City and County of San Francisco

Subject: Contract with TIHDI

Agenda Item No. 9
Meeting of December 8, 1999

Contact/Phone: Annemarie Conroy, Executive Director
Eila Arbuckle, Finance Manager
274-0660

SUMMARY OF REQUESTED ACTION

Staff request authorization to enable the Executive Director to execute a contract with the Treasure Island Homeless Development Initiative (TIHDI) for the period January 1, 2000 through December 31, 2000, for an amount not to exceed $75,000.

DISCUSSION

TIHDI is a California nonprofit corporation organized to utilize the resources of former Naval Base Treasure Island available to help fill gaps in the continuum of care for homeless persons and families, pursuant to the Base Closure Community Redevelopment and Homeless Assistance Act of 1994. TIHDI's member organizations are all nonprofit organizations serving the homeless.

The recommended support for TIHDI will come from the revenues generated by leasing TI facilities, and will be used by TIHDI to provide all labor, materials, and equipment necessary to:

- Coordinate and facilitate the participation of community-based homeless service organizations in the development of plans to implement the proposed Base Closure Homeless Assistance Agreement and Option to Lease Real Property on Treasure Island and Yerba Buena Island

- Coordinate activities with all public and private agencies operating on former naval base Treasure Island in the development of plans to implement the proposed Base Closure Homeless Assistance Agreement and Option to Lease Real Property

- Coordinate occupancy of 62 units of housing on Treasure Island by March 15, 2000

- Coordinate development and occupancy of and additional 136 units of housing on TI and YBI by October 31, 2000

- Operate a job broker system and secure 20 jobs for homeless and economically disadvantaged San Francisco residents by December 31, 2000

- Develop and implement a fundraising plan that will secure $30,000 by June 30, 2000 and $30,000 by December 31, 2000 to fund TIHDI's operations

Staff Recommendation

Staff recommends approval of the proposed contract.

AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A CONTRACT WITH TREASURE ISLAND HOMELESS DEVELOPMENT INITIATIVE, A CALIFORNIA PUBLIC BENEFIT CORPORATION, FOR AN AMOUNT NOT TO EXCEED $75,000 TO COORDINATE AND FACILITATE THE PARTICIPATION OF HOMELESS SERVICES ORGANIZATIONS IN IMPLEMENTING THE PROPOSED BASE CLOSURE HOMELESS ASSISTANCE AGREEMENT AND OPTION TO LEASE REAL PROPERTY.

WHEREAS, Naval Station Treasure Island is a military base located on Treasure Island and Yerba Buena Island (together, the "Base"), which is currently owned by the United States of America ("the Federal Government"); and,

WHEREAS, Treasure Island was selected for closure and disposition by the Base Realignment and Closure Commission in 1993, acting under Public Law 101-510, and its subsequent amendments; and,

WHEREAS, In 1995, the General Services Administration and the Bureau of Land Management determined that Yerba Buena Island was surplus to the Federal Government's needs and could be transferred to the administrative jurisdiction of the Department of Defense under the Base Closure and Realignment Act of 1990 and disposed of together with Treasure Island; and,

WHEREAS, On May 2, 1997, the Board of Supervisors passed Resolution No. 380-97, authorizing the Mayor's Treasure Island Project Office to establish a nonprofit public benefit corporation known as the Treasure Island Development Authority (the "Authority") to act as a single entity focused on the planning, redevelopment, reconstruction, rehabilitation, reuse and conversion of the Base for the public interest, convenience, welfare and common benefit of the inhabitants of the City and County of San Francisco; and,

WHEREAS, Under the Treasure Island Conversion Act of 1997, which amended Section 33492.5 of the California Health and Safety Code and added Section 2.1 to Chapter 1333 of the Statutes of 1968 (the "Act"), the California Legislature (I) designated the Authority as a redevelopment agency under California redevelopment law with authority over the Base upon approval of the City's Board of Supervisors, and (ii) with respect to those portions of the Base which are subject to Tidelands Trust, vested in the Authority the Authority to administer the public trust for commerce, navigation and fisheries as to such property; and

WHEREAS, The Board of Supervisors approved the designation of the Authority as a redevelopment agency for Treasure Island in 1997; and,

WHEREAS, the City and County of San Francisco negotiated a proposed Base Closure Homeless Assistance Agreement and Option to Lease Real Property with the Treasure Island Homeless Development Initiative, a California nonprofit corporation organized to utilize the resources of former naval base Treasure Island available to help fill gaps in the continuum of care for homeless persons and families, pursuant to the Base Closure Community Redevelopment and Homeless Assistance Act of 1994; and,

WHEREAS, the Authority wishes to support the Treasure Island Homeless Development Initiative pursuant to the Base Closure Community Redevelopment and Homeless Assistance Act of 1994; and

WHEREAS, the Contractor represents and warrants that it is qualified to perform the services required by City as set forth under this Contract; and

WHEREAS, the Authority has negotiated with the Contractor to reach agreement on the scope of work, and budget for the services shown in Appendix A;

Now, therefore be it RESOLVED, That the Authority hereby authorizes the Executive Director of the Project to execute a contract with Treasure Island Homeless Development Initiative, a California public benefit corporation, for an amount not to exceed $75,000 to coordinate and facilitate implementation of the proposed Base Closure Homeless Assistance Agreement and Option to Lease Real Property for former naval base Treasure Island.

CERTIFICATE OF SECRETARY

I hereby certify that I am the duly elected and acting Secretary of the Treasure Island Development Authority, a California nonprofit public benefit corporation, and that the above Resolution was duly adopted and approved by the Board of Directors of the Authority at a properly noticed meeting on November 10, 1999.

_____

John Elberling, Secretary

CITY AND COUNTY OF SAN FRANCISCO
TREASURE ISLAND DEVELOPMENT AUTHORITY
410 PALM AVENUE
SAN FRANCISCO, CALIFORNIA 94130

AGREEMENT BETWEEN TREASURE ISLAND DEVELOPMENT AUTHORITY

AND

"TREASURE ISLAND HOMELESS DEVELOPMENT INITIATIVE"

This Agreement is made this ninth day of December 1999, in the City and County of San Francisco, State of California, by and between Treasure Island Homeless Development Initiative, hereinafter referred to as "Contractor," and the Treasure Island Development Authority, hereinafter referred to as "Authority," acting by and through the Executive Director of the Authority

Recitals

WHEREAS, Naval Station Treasure Island is a military base located on Treasure Island and Yerba Buena Island (together, the "Base"), which is currently owned by the United States of America ("the Federal Government"); and,

WHEREAS, Treasure Island was selected for closure and disposition by the Base Realignment and Closure Commission in 1993, acting under Public Law 101-510, and its subsequent amendments; and,

WHEREAS, In 1995, the General Services Administration and the Bureau of Land Management determined that Yerba Buena Island was surplus to the Federal Government's needs and could be transferred to the administrative jurisdiction of the Department of Defense under the Base Closure and Realignment Act of 1990 and disposed of together with Treasure Island; and,

WHEREAS, On May 2, 1997, the Board of Supervisors passed Resolution No. 380-97, authorizing the Mayor's Treasure Island Project Office to establish a nonprofit public benefit corporation known as the Treasure Island Development Authority (the "Authority") to act as a single entity focused on the planning, redevelopment, reconstruction, rehabilitation, reuse and conversion of the Base for the public interest,

convenience, welfare and common benefit of the inhabitants of the City and County of San Francisco; and,

WHEREAS, Under the Treasure Island Conversion Act of 1997, which amended Section 33492.5 of the California Health and Safety Code and added Section 2.1 to Chapter 1333 of the Statutes of 1968 (the "Act"), the California Legislature (I) designated the Authority as a redevelopment agency under California redevelopment law with authority over the Base upon approval of the City's Board of Supervisors, and (ii) with respect to those portions of the Base which are subject to Tidelands Trust, vested in the Authority the Authority to administer the public trust for commerce, navigation and fisheries as to such property; and

WHEREAS, The Board of Supervisors approved the designation of the Authority as a redevelopment agency for Treasure Island in 1997; and,

WHEREAS, the City and County of San Francisco negotiated a proposed Base Closure Homeless Assistance Agreement and Option to Lease Real Property with the Treasure Island Homeless Development Initiative, a California nonprofit corporation organized to utilize the resources of former naval base Treasure Island available to help fill gaps in the continuum of care for homeless persons and families, pursuant to the Base Closure Community Redevelopment and Homeless Assistance Act of 1994; and,

WHEREAS, the Authority wishes to support the Treasure Island Homeless Development Initiative pursuant to the Base Closure Community Redevelopment and Homeless Assistance Act of 1994; and

WHEREAS, the Authority has negotiated with the Contractor to reach agreement on the scope of work, and budget for the services shown in Appendix A; and

WHEREAS, approval for said Agreement was obtained from the San Francisco Board of Supervisors by Resolution No 672-96 dated July 26, 1996.

Now, THEREFORE, the parties agree as follows:

1. **Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation**

This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization.

This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated.

City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

2. **Term of the Agreement**

Subject to Section 1, the term of this Agreement shall be from January 1, 2000 through December 31, 2000.

3. **Effective Date of Agreement**

This Agreement shall become effective when the Controller has certified to the availability of funds and Contractor has been notified in writing.

4. **Services Contractor Agrees to Perform**

The Contractor agrees to perform the tasks outlined in Appendix A "Scope of Services". In performing its rights and responsibilities under this Agreement, Contractor shall comply with the workforce hiring goals for qualified homeless or otherwise economically disadvantaged persons and San Francisco residents as specified in Addendum 1 to Appendix A, "Scope of Services".

5. **Compensation**

Compensation shall be made in monthly payments on or before the last day of each month for services performed through the last day of the preceding month that the Executive Director of the Authority, in her sole discretion, concludes has been performed. In no event shall the amount of this Agreement exceed **SEVENTY-FIVE THOUSAND DOLLARS**. Contractor shall invoice the Authority at a flat rate of six thousand two hundred and fifty ($6,250) per month. Contractor shall include appropriate documentation of expenditures with each invoice.

No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until services required under this Agreement are received from Contractor and approved by the Treasure Island Project as being in accordance with this Agreement. City may withhold payment to Contractor in any instance in which Contractor has failed or refused to satisfy any material obligation provided for under this Agreement.

In no event shall City be liable for interest or late charges for any late payments.

6. <u>Guaranteed Maximum Costs</u>

a. The City's obligation hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification.

b. Except as may be provided by City ordinances governing emergency conditions, the City and its employees and officers are not authorized to request Contractor to perform services or to provide materials, equipment and supplies that would result in Contractor performing services or providing materials, equipment and supplies that are beyond the scope of the services, materials, equipment and supplies agreed upon in the contract unless the agreement is amended in writing and approved as required by law to authorize the additional services, materials, equipment or supplies. The City is not required to reimburse Contractor for services, materials, equipment or supplies that are provided by Contractor which are beyond the scope of the services, materials, equipment and supplies agreed upon in the contract and which were not approved by a written amendment to the agreement having been lawfully executed by the City.

c. The City and its employees and officers are not authorized to offer or promise to Contractor additional funding for the contract which would exceed the maximum amount of funding provided for in the contract for Contractor's performance under the contract. Additional funding for the contract in excess of the maximum provided in the contract shall require lawful approval and certification by the Controller of the City and County of San Francisco. The City is not required to honor any offered or promised additional funding for a contract which exceeds the maximum provided in the contract which requires lawful approval and certification of the Controller when the lawful approval and certification by the Controller has not been obtained.

d. The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

7. **Payment; Invoice Format**

Invoices furnished by Contractor under this Agreement must be in a form acceptable to the Controller, and must include the Contract Progress Payment Authorization number. All amounts paid by City to Contractor shall be subject to audit by City.

Payment shall be made by City to Contractor at the address specified in the section entitled "Notices to the Parties."

8. **Submitting False Claims; Monetary Penalties**

Pursuant to San Francisco Administrative Code section 6.57, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for three times the amount of damages which the City sustains because of the false claim. A contractor, subcontractor or consultant who submits a false claim shall also be liable to the City for the costs, including attorney's fees, of a civil action brought to recover any of those penalties or damages, and may be liable to the City for a civil penalty of up to $10,000 for each false claim. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

9. **Disallowance**

Left blank by agreement of the parties.

10. **Taxes**

a. Payment of any taxes, including possessory interest taxes and California Sales and Use Taxes, levied upon this Agreement, the transaction, or the services delivered pursuant hereto, shall be the obligation of Contractor.

b. If this Agreement entitles Contractor to the possession, occupancy or use of City real property for private gain, then the following provisions apply:

(1) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that this Agreement may create a possessory interest subject to property taxation and Contractor, and any permitted successor or assign, may be subject to the payment of such taxes.

(2) Contractor, on behalf of itself and any permitted successors and assigns, further recognizes and understands that any assignment permitted hereunder and any exercise of any option to renew or other extension of this Agreement may constitute a change in ownership for purposes of property taxation and therefore may result in a revaluation of any possessory interest created hereunder. Contractor shall report any assignment or other transfer of any interest in this Agreement or any renewal or extension thereof to the County Assessor within sixty days after such assignment, transfer, renewal or extension.

(3) Contractor further agrees to provide such other information as may be requested by the City to enable the City to comply with any reporting requirements under applicable law with respect to possessory interests.

11. Payment Does Not Imply Acceptance of Work

The granting of any payment by City, or the receipt thereof by Contractor, shall in no way lessen the liability of Contractor to replace unsatisfactory work, equipment, or materials although the unsatisfactory character of such work, equipment or materials may not have been apparent or detected at the time such payment was made. Materials, equipment, components, or workmanship which do not conform to the requirements of this Agreement may be rejected by City and in such case must be replaced by Contractor without delay.

12. Qualified Personnel

Work under this Agreement shall be performed only by competent personnel under the supervision of and in the employment of Contractor. Contractor will comply with City's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at City's request, must be supervised by Contractor.

13. Responsibility for Equipment

City shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Contractor, or by any of its employees, even though such equipment be furnished, rented or loaned to Contractor by City.

14. Independent Contractor; Payment of Taxes and Other Expenses

a. Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Contractor is liable for the acts and omissions of itself, its employees and its agents. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Contractor.

Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained.

b. Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Contractor is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Contractor which can be applied against this liability). City shall then forward those amounts to the relevant taxing authority.

Should a relevant taxing authority determine a liability for past services performed by Contractor for City, upon notification of such fact by City, Contractor shall promptly remit such amount due or arrange with City to have the amount due withheld from future payments to Contractor under this Agreement (again, offsetting any amounts already paid by Contractor which can be applied as a credit against such liability).

A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Contractor shall not be considered an employee of City. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Contractor is an employee for any other purpose, then Contractor agrees to a reduction in City's financial liability so that City's total expenses under this Agreement are not greater than they would have been had the court, arbitrator, or administrative authority determined that Contractor was not an employee.

15. Insurance

a. Without in any way limiting Contractor's liability pursuant to the "Indemnification" section of this Agreement, Contractor must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

(1) Worker's Compensation, with Employers' Liability Limits not less than $1,000,000 each accident; and

(2) Commercial General Liability Insurance with limits not less than $1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and

(3) Business Automobile Liability Insurance with limits not less than $1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.

b. Commercial General Liability and Business Automobile Liability Insurance policies must provide the following:

(1) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

(2) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

c. All policies shall provide tirty (30) days' advance written notice to Authority of cancellation mailed to the following address:

Annemarie Conroy, Executive Director
Treasure Island Development Authority
City and County of San Francisco
410 Palm Avenue
San Francisco, CA 94130

d. Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to

claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

e. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

f. Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

g. Before commencing any operations under this Agreement, Contractor must furnish to City certificates of insurance, in form and with insurers satisfactory to City, evidencing all coverages set forth above, and shall furnish complete copies of policies promptly upon City request.

h. Approval of the insurance by City shall not relieve or decrease the liability of Contractor hereunder.

16. Indemnification

Contractor shall indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of Contractor or loss of or damage to property, resulting directly or indirectly from Contractor's performance of this Agreement, including, but not limited to, the use of Contractor's facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Contractor, its subcontractors or either's agent or employee.

In addition to Contractor's obligation to indemnify City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification

provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter.

Contractor shall indemnify and hold City harmless from all loss and liability, including attorney's fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark and all other intellectual property claims of any person or persons in consequence of the use by City, or any of its officers or agents, of articles or services to be supplied in the performance of this Agreement.

17. **Incidental and Consequential Damages**

Contractor shall be responsible for incidental and consequential damages resulting in whole or in part from Contractor's acts or omissions. Nothing in this Agreement shall constitute a waiver or limitation of any rights which City may have under applicable law.

18. **Liability of City**

CITY'S OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 5 OF THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

19. **Liquidated Damages**

Left blank by agreement of the parties.

20. **Bankruptcy**

In the event that either party shall cease conducting business in the normal course, become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for its business or assets or shall avail itself of, or become subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or the protection of rights of creditors, then at the option of

the other party this Agreement shall terminate and be of no further force and effect, and any property or rights of such other party, tangible or intangible, shall forthwith be returned to it.

21. Termination/Termination for Convenience

In the event Contractor fails to perform any of its obligations under this Agreement, this Agreement may be terminated and all of Contractor's rights hereunder ended. Termination will be effective after ten days written notice to Contractor. No new work will be undertaken after the date of receipt of any notice of termination, or five days after the date of the notice, whichever is earlier. In the event of such termination, Contractor will be paid for those services performed under this Agreement to the satisfaction of the City, up to the date of termination. However, City may offset from any such amounts due Contractor any liquidated damages or other costs City has or will incur due to Contractor's non-performance. Any such offset by City will not constitute a waiver of any other remedies City may have against Contractor for financial injury or otherwise.

City may terminate this Agreement for City's convenience and without cause at any time by giving Contractor thirty days written notice of such termination. In the event of such termination, Contractor will be paid for those services performed, pursuant to this Agreement, to the satisfaction of the City up to the date of termination. In no event will City be liable for costs incurred by Contractor after receipt of a notice of termination. Such non-recoverable costs include, but are not limited to, anticipated profits on this Agreement, post-termination employee salaries, post-termination administrative expenses, or any other cost which is not reasonable or authorized under this section. This section shall not prevent Contractor from recovering costs necessarily incurred in discontinuing further work under the contract after receipt of the termination notice.

Upon termination of this Agreement, Contractor will submit an invoice to City for an amount which represents the value of its work or services actually performed prior to the effective date of termination for which Contractor has not previously been compensated, except that with respect to reimbursement for Contractor's services, in no event will the compensation paid for the month in which termination occurs be greater than the scheduled monthly fee multiplied by a fraction, the numerator of which will be the days in the month elapsed prior to the termination and the denominator of which shall be 31. Upon approval and payment of this invoice by City, City shall be under no further obligation to Contractor monetarily or otherwise.

22. Contractor's Default

Failure or refusal of Contractor to perform any work or service or do any act required under this Agreement shall constitute a default. In the event of any default, in addition to any other remedy available to Purchasing, this Agreement may be terminated by the TI Project pursuant to the terms of Section 21 herein. Such termination shall not waive any other legal remedies available to Purchasing.

23. Conflict of Interest

Through its execution of this Agreement, Contractor acknowledges that it is familiar with the provisions of Section 15.103 and Appendix C 8.105 of City's Charter and Section 87100 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provisions.

24. Proprietary or Confidential Information of City

Contractor understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Contractor agrees that all information disclosed by City to Contractor shall be held in confidence and used only in performance of the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

25. Notices to the Parties

All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and registered as follows:

To City: Annemarie Conroy, Executive Director
Treasure Island Development Authority
City and County of San Francisco
410 Palm Avenue
San Francisco, CA 94130

To Contractor:
Sherry Williams
Treasure Island Homeless Development Initiative
410 Palm Avenue
San Francisco, CA 94130

26. Ownership of Results

Any interest of Contractor or its Subcontractors, in drawings, plans, specifications, studies, reports, memoranda, computation sheets, the contents of computer diskettes, or other documents prepared by Contractor or its Subcontractors in connection with services to be performed under this Agreement, shall become the property of and will be transmitted to City. However, Contractor may retain and use copies for reference and as documentation of its experience and capabilities.

27. Works for Hire

If, in connection with services performed under this Agreement, Contractor or its subcontractors create artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, source codes or any other original works of authorship, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works are the property of the City. If it is ever determined that any works created by Contractor or its subcontractors under this Agreement are not works for hire under U.S. law, Contractor hereby assigns all copyrights to such works to the City, and agrees to provide any material and execute any documents necessary to effectuate such assignment. With the approval of the City, Contractor may retain and use copies of such works for reference and as documentation of its experience and capabilities.

28. Audit and Inspection of Records

Contractor agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its work under this Agreement. Contractor will permit City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of not less than five years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject of this Agreement shall have the same rights conferred upon City by this Section.

29. Subcontracting

Contractor is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is first approved by City in a written instrument executed and approved in the same manner as this Agreement. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. An agreement made

in violation of this provision shall confer no rights on any party and shall be null and void.

30. Assignment

The services to be performed by Contractor are personal in character and neither this Agreement nor any duties or obligations hereunder may be assigned or delegated by the Contractor unless first approved by City by written instrument executed and approved in the same manner as this Agreement.

31. Minority/Women/Local Business Utilization; Liquidated Damages

Contractor understands and agrees to comply fully with all provisions of Chapter 12D ("Minority/Women/Local Business Utilization") of the San Francisco Administrative Code. Said provisions are incorporated herein by reference and made a part of this Agreement as though fully set forth.

In the event Contractor willfully fails to comply with any of the provisions of Chapter 12D, Contractor shall be liable for liquidated damages in an amount equal to Contractor's net profit on this Agreement, or ten percent (10%) of the total amount of this Agreement, or one thousand dollars ($1,000), whichever is greatest. The amount of liquidated damages imposed will be determined by the Director of the City's Human Rights Commission (HRC) after investigation pursuant to §12D.14(C).

By entering into this Agreement, Contractor acknowledges and agrees that any liquidated damages assessed by the Director of the HRC shall be payable to City upon demand. Contractor further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to Contractor on any contract with City.

32. Nondiscrimination; Penalties

(a) Contractor Shall Not Discriminate. In the performance of this Agreement, Contractor agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with Contractor, in any of Contractor's operations within the United States, or against any person seeking

accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Contractor.

(b) Subcontracts. Contractor shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing) and shall require all subcontractors to comply with such provisions. Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

(c) Non-Discrimination in Benefits. Contractor does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco or where the work is being performed for the City or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(d) Condition to Contract. As a condition to this Agreement, Contractor shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

(e) Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Contractor understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of $50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Contractor and/or deducted from any payments due Contractor.

33. MacBride Principles--Northern Ireland

Pursuant to San Francisco Administrative Code section 12.F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move

towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

34. **Tropical Hardwood and Virgin Redwood Ban**

Pursuant to San Francisco Administrative Code section 12I.5(b), the City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood or virgin redwood or tropical hardwood or virgin redwood product.

35. **Drug-Free Workplace Policy**

Contractor acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Contractor agrees that any violation of this prohibition by Contractor, its employees, agents or assigns will be deemed a material breach of this Agreement.

36. **Resource Conservation; Liquidated Damages**

Chapter 21A of the San Francisco Administrative Code ("Resource Conservation") is incorporated herein by reference. Failure by Contractor to comply with any of the applicable requirements of Chapter 21A will be deemed a material breach of contract.

In the event Contractor fails to comply in good faith with any of the provisions of Chapter 21A, Contractor will be liable for liquidated damages in an amount equal to Contractor's net profit under this Agreement, or five percent (5%) of the total contract amount, whichever is greater. Contractor acknowledges and agrees that the liquidated damages assessed shall be payable to City upon demand and may be offset against any monies due to Contractor from any contract with City.

37. **Compliance with Americans with Disabilities Act**

Contractor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Contractor shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further

agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns will constitute a material breach of this Agreement.

38. **Sunshine Ordinance**

In accordance with San Francisco Administrative Code section 67.24(e), contracts, contractors' bids, responses to requests for proposals and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

39. **Prohibiting City Business with Burma**

By its execution of this Agreement, Contractor attests that it is not the government of Burma (Myanmar), a person or business entity organized under the laws of Burma (Myanmar) or a "prohibited person or entity" as defined in San Francisco Administrative Code section 12J.2(G). The City may terminate this Agreement for default if Contractor violates the terms of section 12J.2(G).

Chapter 12J of the San Francisco Administrative Code is hereby incorporated by reference as though fully set forth herein. The failure of Contractor to comply with any of its requirements shall be deemed a material breach of contract. In the event that Contractor fails to comply in good faith with any of the provisions of Chapter 12J of the San Francisco Administrative Code, Contractor shall be liable for liquidated damages for each violation in an amount equal to Contractor's net profit under the contract, or 10% of the total amount of the contract, or $1,000, whichever is greatest. Contractor acknowledges and agrees that the liquidated damages assessed shall be payable to the City upon demand and may be set off against any moneys due to the Contractor from any City contract.

40. **Non-Waiver of Rights**

The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

41. **Modification of Agreement**

This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement.

42. **Administrative Remedy for Agreement Interpretation**

Should any question arise as to the meaning and intent of this Agreement, the question shall, prior to any other action or resort to any other legal remedy, be referred to Purchasing who shall decide the true meaning and intent of the Agreement.

43. **Agreement Made in California; Venue**

The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

44. **Construction**

All paragraph captions are for reference only and shall not be considered in construing this Agreement.

45. **Entire Agreement**

This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This contract may be modified only as provided in Section 41.

46. **Compliance With Laws**

Contractor shall keep itself fully informed of the City's Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

47. **Severability**

Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum

extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

CITY

Recommended and approved by:

_____
Annemarie Conroy, Executive Director
Treasure Island Development Authority

Approved as to form:

Louise H. Renne
City Attorney

By _____
Deputy City Attorney

Approved:

Edwin Lee
City Purchaser

By _____

CONTRACTOR

_____
Treasure Island Homeless Development Initiative
410 Palm Avenue
San Francisco CA 94130
Fed Tax ID: 94-3280624

I have read and understood Sec. 33, the City's statement urging companies doing business in Northern Ireland to move towards resolving employment inequities, encouraging compliance with the MacBride Principles, and urging San Francisco companies to do business with corporations that abide by the MacBride Principles.

By _____

Treasure Island Homeless Development Initiative
410 Palm Avenue
San Francisco CA 94130
Fed Tax ID: 94-3280624

APPENDIX A SCOPE OF SERVICES

SERVICES TO BE PROVIDED BY CONTRACTOR

Treasure Island Homeless Development Initiative ("Contractor") shall provide all labor, materials, and equipment necessary to:

- Coordinate and facilitate the participation of community-based homeless service organizations in the development of plans to implement the proposed Base Closure Homeless Assistance Agreement and Option to Lease Real Property on Treasure Island and Yerba Buena Island

- Coordinate activities with all public and private agencies operating on former naval base Treasure Island in the development of plans to implement the proposed Base Closure Homeless Assistance Agreement and Option to Lease Real Property

- Coordinate occupancy of 62 units of housing on Treasure Island by March 15, 2000

- Coordinate development and occupancy of an additional 136 housing units on TI and YBI by October 31, 2000

- Operate a job broker system and secure 20 jobs for homeless and economically disadvantaged San Francisco residents by December 31, 2000

- Develop and implement a fundraising plan that will secure $30,000 by June 30, 2000 and $30,000 by December 31, 2000 to fund TIHDI's operations

Contractor's compliance with this scope of services is contingent upon Contractor's current information about future events. Since outside factors may change and may adversely affect Contractor's ability to fulfill this scope of services, Contractor will promptly notify the Executive Director of the Authority in writing of circumstances that affect completion of the scope of services. Contractor will not be penalized for failure to fulfill all components of the scope of services if this notification is made.

ADDENDUM 1 TO APPENDIX A

1. WORKFORCE HIRING GOALS

In performing its rights and responsibilities under this Agreement, Contractor shall comply with the following workforce hiring goals for qualified homeless or otherwise economically disadvantaged persons and San Francisco residents.

1.1 **Contractor's Workforce Hiring Goals**. Contractor shall use Good faith Efforts to meet the work force hiring goals described herein (the "Workforce Goals"). For purposes of this Section 1, Contractor's Good Faith Efforts shall include, but not be limited to, the following:

(a) Submitting detailed written plans describing how Contractor intends to meet the Workforce Goals (a "Hiring Plan").

(b) Listing jobs available on the Premises with the TIHDI Job Broker at least two weeks prior to advertising for applicants elsewhere;

(c) Considering for appropriate job openings all candidates who are qualified, screened and referred to it by the TIHDI Job Broker;

(d) Establishing with TIHDI mutually acceptable means of communicating about job openings and provide information about jobs and about outcomes of referrals within a reasonable time upon request by the TIHDI Job Broker;

(e) Consulting with the TIHDI Job Broker on an ongoing basis about how to meet Contractor's Workforce Goals; and

(f) Meeting and conferring with the TIHDI Job Broker to discuss and attempt to resolve any problems with Contractor meeting its Workforce Goals.

1.2 **Burden of Proof**. If the Workforce Goals are not met, Contractor shall have the burden of establishing in any Enforcement Procedure described in Section 1.9 below that it made Good Faith Efforts and that the candidates who were selected were better qualified for work than the homeless or economically disadvantages persons who applied or were referred by the TIHDI Job Broker.

1.3 **Construction Workforce**. Without obligation (other than as expressly set forth herein), Contractor shall also be required to give consideration for hiring on all construction projects on the Premises to qualified homeless or otherwise economically disadvantaged persons, and to qualified residents of San Francisco whose annual income,

at the time of hire, is at or below fifty percent (50%) of median income for the City as determined by HUD.

1.4 **Subcontracting**. Contractor will consider subcontracting certain tasks to be performed by Contractor under this Agreement to TIHDI member organizations, particularly for grounds keeping, janitorial, recycling and deconstruction activities. Subcontracts with TIHDI organizations will be included for purposes of determining Contractor's Good Faith Efforts to meet the Work Force Goals.

1.5 **Hiring Plan.**

(a) Contractor shall submit its Hiring Plan to the Authority within sixty (60) days of the Commencement Date. Contractor's Hiring Plan shall include a detailed description of how Contractor intends to meet its Workforce Goals, which description should include community outreach and recruiting efforts, hiring procedures (e.g., phased hiring), a projected schedule for meeting the Workforce Goals, and alternative courses of action if it appears that the Workforce Goals will not be met.

(b) During the first 30 days after the Hiring Plan is submitted, the Authority and Contractor shall negotiate in good faith solutions to any deficiencies in the Hiring Plan as reasonably determined by the Authority. At the expiration of such 30-day period, the Authority shall advise Contractor, through a written "Notice of Noncompliance," of any alleged deficiency in the Hiring Plan remaining at the close of such negotiations. The Notice of Noncompliance shall state the specific basis for the alleged deficiency(ies) and the Authority's suggested cure. Contractor shall advise the Authority within 10 days of its receipt of the Notice of Noncompliance whether Contractor accepts the suggested cure. If the Contractor rejects the suggested cure, either party may proceed immediately to the Enforcement Procedure pursuant to Section 1.9 below by filing a Request for Enforcement ("Request") on the Hiring Plan. The Request shall specify the issues presented and the relief requested.

1.6 **Reports**. Contractor shall prepare reports regarding the composition of Contractor's work force reasonably satisfactory to the Authority.

1.7 **Matters Subject to Enforcement Procedure**. In addition to the initial preparation of the Hiring Plan, all matters related to implementing the Hiring Plan and the Workforce Goals are subject to the Enforcement Procedure described in Section 1.9 below.

1.8 **Implementation of Enforcement Procedure**. The Enforcement Procedure, as provided for in Section 1.9 below, shall be the exclusive procedure for resolving any dispute concerning the interpretation or implementation of the Hiring Plan

or any alleged deficiency in Contractor's Good Faith Efforts to achieve the Workforce Goals. The Enforcement Procedure shall be implemented by the Human Rights Commission of the City of County of San Francisco (the "Commission"), which shall have the powers described below unless otherwise provided by law.

(a) All subcontracts related to the Agreement ("Subcontracts") shall incorporate the provisions of this Section 1 and the Authority shall have the right to enforce said obligations, requirements and agreements against the Contractor or its subcontractors. Contractor shall require, by contract, that each subcontractor participates in Enforcement Procedure proceedings in which it may be identified in a Request, and that each subcontractor shall be bound by the outcome of such Enforcement Procedure according to the decision of the Commission.

1.9 Enforcement Procedure.

(a) If the Authority reasonably determines that Contractor has failed to use Good Faith Efforts to meet the Workforce Goals, or for any other matter subject to this Enforcement Procedure the Authority shall send a written Notice of Noncompliance to Contractor describing the basis for its determination and suggesting a means to cure any deficiencies. If Contractor does not, in the reasonable discretion of the Authority, cure the deficiency within ten (10) days, the matter shall be submitted to the following Enforcement Procedure.

(i) Prior to the filing and service of a Request, the parties to any dispute shall meet and confer in an attempt to resolve the dispute.

(ii) The Authority, Contractor or any subcontractor may commence resolution of any dispute covered by the Enforcement Procedure by filing a Request with the Commission. Where the Authority is not the complaining party, the Request shall be served on the Authority. Where the Authority is the complaining party, the Request shall be served on the Contractor at the Notice Address listed in the Agreement, and the non-compliant subcontractor, if any, if such service can be achieved with reasonable effort. The Request shall be filed and served either by hand delivery or by registered or certified mail. The Request shall identify the entities involved in the dispute and state the exact nature of the dispute and the relief sought. If the complaining party seeks a temporary restraining order and/or a preliminary injunction, the Request shall so state in the caption of the Request.

(iii) Service on the Contractor of the Request or any notice provided for by this Section 1 shall constitute service of the Request or notice on all subcontractors who are identified as being in alleged noncompliance in the Request. The

Contractor shall promptly serve the Request or notice, by hand delivery or registered or certified mail, on all such subcontractors.

(iv) The TIHDI Job Broker shall have the right to present testimony or documentary evidence at Enforcement Procedure proceedings.

(v) After the filing and the service of a Request, the parties shall negotiate in good faith for a period of 10 business days in an attempt to resolve the dispute; provided that the complaining party may proceed immediately to the Enforcement Procedure, without engaging in such a conference or negotiations, if the facts could reasonably be construed to support the issuance of a temporary restraining order or a preliminary injunction ("Temporary Relief"). The Commission shall determine whether the facts reasonably supported the issuance of Temporary Relief.

(vi) If the dispute is not settled within 10 business days, a hearing shall be held within 90 days of the date of the filing of the Request, unless otherwise agreed by the parties or ordered by the Commission upon a showing of good cause; provided, that if the complaining party seeks a temporary restraining order, the hearing on the motion for a temporary restraining order shall be heard not later than two (2) business days after the filing of the Request, and provided further, if a party seeks a preliminary injunction, such motion shall be heard on 15 days' notice. The Commission shall set the date, time and place for the Enforcement Procedure hearing(s) within the proscribed time periods by giving notice by hand delivery to the Authority and the Contractor; except, where a temporary restraining order is sought, the Commission may give notice of the hearing date, time and place to the Authority, Contractor and any affected subcontractor by telephone.

(vii) In the Enforcement Procedure proceedings hereunder, discovery shall be permitted in accordance with Code of Civil Procedure §1283.05.

(b) **Commission's Decision**. The Commission shall render a decision within 20 days of the date that the hearing on a Request is completed; provided that where a temporary restraining order is sought, the Commission shall render a decision not later than 24 hours after the hearing on the motion. The Commission shall send the decision by certified or registered mail to the Authority, the Contractor and the subcontractor, if any.

(i) The Commission may enter a default award against any party who fails to appear at the hearing; provided said party received actual notice of the hearing. In a proceeding seeking a default award against a party other than the Contractor, the Contractor shall provide proof of service on the party as required by this Article. If the Contractor fails to provide proof of service, the Contractor shall pay

$2,500 as liquidated damages to the Authority, provided that no such damages shall be assessed if the Contractor demonstrates that it made good faith efforts to serve the party. In order to obtain a default award, the complaining party need not first seek or obtain an order to arbitrate the controversy pursuant to Code of Civil Procedure §1281.2.

(ii) Except as otherwise provided in this Section 1, the Commission shall have no power to add to, subtract from, disregard, modify or otherwise alter the terms of the Agreement, or to negotiate new agreements or provisions between the parties.

(iii) The inquiry of the Commission shall be restricted to the particular controversy that gave rise to the request for the Enforcement Procedure. A decision of the Commission issued hereunder shall be final and binding upon the Authority, Contractor, and subcontractors, if any, sent by mail to the Authority, the Contractor and the subcontractor, if any. The losing party shall pay the Commission's fees and related costs of the Enforcement Procedure. If a subcontractor is the losing party and fails to pay said fees within 30 days of the decision, the Contractor shall pay the fees. Each party shall pay its own attorneys' fees provided that fees may be awarded to the prevailing party if the Commission finds that the Request was frivolous or that the Enforcement Procedure action was otherwise instituted or litigated in bad faith. Judgment upon the Commission's decision may be entered in any court of competent jurisdiction.

(c) **Remedies and Sanctions.** Except as may otherwise be expressly provided herein, the Commission may impose only the remedies and sanctions set forth below and only against the non-compliant party(ies):

(i) Order specific, reasonable actions and procedures, in the form of a temporary restraining order, preliminary injunction or permanent injunction, to mitigate the effects of the Contractor's failure to make Good Faith Efforts, and/or to require Contractor and/or its subcontractors to make such Good Faith Efforts, including, but not limited to, orders enjoining the Contractor from recruiting, screening or hiring (through new hires, transfers or otherwise) any person for employment at the Premises pending resolution of the alleged deficiency(ies) in the Hiring Plan or Contractor's implementation of the Workforce Goals.

(ii) Require the Contractor or Subcontractors to refrain from entering into new contracts related to work related to the Agreement, or from granting extensions or other modifications to existing contracts related to the Agreement, other than those minor modifications or extensions necessary to enable completion of the work covered by the existing contract, with any non-compliant subcontractor until such

subcontractor provides assurances satisfactory to the Authority and the Contractor of future Good Faith Efforts to comply with the Workforce Goals.

(iii) Direct the Contractor or subcontractor to cancel, terminate, suspend or cause to be canceled, terminated or suspended, any contract or lease or portion(s) thereof for failure of the subcontractor to make Good Faith Efforts to comply with the Workforce Goals, provided, however that Subcontracts may be continued upon the condition that a program for future compliance is approved by the Authority.

(iv) If the Contractor or subcontractor is found to be in willful breach of its obligations to make Good Faith Efforts to achieve the Workforce Goals, impose financial penalties not to exceed $50,000 or 10 percent of the total monetary consideration contemplated by the Agreement, whichever is less, for each such breach on the party responsible for the willful breach; provided, however, no penalty shall be imposed pursuant to this paragraph for the first willful breach unless the breaching party has failed to cure after being provided notice and a reasonable opportunity to cure. The Contractor or subcontractor may impose penalties for subsequent willful breaches whether or not the breach is subsequently cured. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.

(v) Direct that the Contractor or subcontractor produce and provide to the Authority any records, data or reports that are necessary to determine if a violation has occurred and/or to monitor the performance of the Contractor or Subcontractor.

(vi) Issue such other relief deemed necessary to ensure that the Hiring Plan is written and implemented, and that Contractor makes Good Faith Efforts to meet its Workforce Goals, including requiring the inclusion or exclusion of specific terms or provisions in the Hiring Plan based on a determination that the term(s) added or removed further the requirements and objectives of this Section 1.

(d) Delays due to enforcement. If Contractor does not timely perform its obligations under the Agreement with the Authority because of a Commission's order against a party other than the Contractor, such order shall be deemed an event of Force Majeure, and the time for any performance by the Contractor shall be extended as provided therein; provided, however, that Contractor shall make good faith efforts to minimize any delays.

(e) Exculpatory clause. The Contractor and its subcontractors hereby forever waive and release any and all claims against the Authority for Losses arising under or related to this Section 1.

(f) **California law applies.** California law, including the California Arbitration Act, Code of Civil Procedure §§1280 through 1294.2, shall govern all the Enforcement Procedure proceedings.

(g) **Designation of agent for service.** Not later than five (5) days after the execution of this Agreement, the Contractor shall designate a person or business, residing or located in the City and County of San Francisco, as its agent for service of a Request and all notices provided for herein. If the Contractor has an office located in San Francisco, it may designate itself as agent for service. The designation shall be served on

1.10. Relationship to Other Employment Agreements. Nothing in this Agreement shall be interpreted to prohibit the continuation of existing workforce-training agreements or interfere with consent decrees, collective bargaining agreements or existing employment contracts. In the case of collective bargaining agreements, Contractor will take primary responsibility for integrating the requirements of Contractor's Workforce Goals with any such collective bargaining agreements. As necessary, Contractor will attempt to negotiate equivalent first source hiring obligations with relevant unions.

APPENDIX B PROJECT BUDGET

The total amount payable under this Agreement shall not exceed seventy-five thousand dollars.

EXPENSES	TIDA	OTHER FUNDING SOURCES	TOTAL BUDGET 01-01-00/12-31-00
TOTAL	**$75,000**	**$714,217**	**$789,217**
Operating Expenses	**$75,000**	**$414,242**	**$489,242**
Personnel	55,200	221,233	221,233
Fundraising/marketing	10,200	4,800	15,000
Accounting/audit	0	4,982	4,982
Legal Services	0	5,000	5,000
Other contract services	0	36,650	36,650
Equipment		5,000	5,000
Insurance		3,700	3,700
Office Rent & maintenance	9,600	0	9,600
Supplies		7,731	7,731
Photocopying		2,810	2,810
Postage/shipping		3,593	3,593
Printing		14,921	14,921
Staff/volunteer training		3,426	3,426
Subscriptions/fees/memberships		600	600
Telephone		4,788	4,788
Travel, local		6,559	6,559
Travel. Out-of-town		6,000	6,000
Equipment Maintenance		2,755	2,755
Board Retreat		1,000	1,000
OJT Reimbursement		76,300	76,300
Working Essentials (for clients)		694	694
Bank Charges		700	700
Depreciation		1,000	1,000
Program Expenses		**$299,975**	**$299,975**
Community Building Activities		3,000	3,000
Meeting Expenses		5,460	5,460
Job Retention		1,200	1,200
Training Fund		35,000	35,000
Other support services pool		255,315	255,315

Notes

AGENDA ITEM
Treasure Island Development Authority
City and County of San Francisco

Subject: Resolution Authorizing the Executive Director to Enter Into a Sublease with Susie S. Pak Company

Agenda Item No. 10
Meeting of December 8, 1999

Contact/Phone: Annemarie Conroy, Executive Director
Stephen Proud, Director of Development
274-0660

SUMMARY OF PROPOSED ACTION:

This action provides authorization for the Executive Director to enter into a sublease with the Susie S. Pak Company to lease space on Treasure Island for the purpose of operating a convenience store.

BACKGROUND

On November 10, 1999 the Authority authorized the Executive Director to negotiate a sublease with the Susie S. Pak Company (the "Operator") for space on Treasure Island to operate a convenience store. The Operator was referred to the Authority by the John Stewart Company (JSCo) under the terms of the housing sublease (Section 30.2) which states that if neither the Authority nor TIHDI had established a convenience store on Treasure Island by March 31, 1999, the Authority is required to negotiate and use good faith efforts to enter into a sublease with JSCo or other entity acceptable to JSCO for the operation of convenience store on Treasure Island

Based on the authorization granted by the Authority, staff has negotiated a sublease with the Operator, which is attached to the resolution as Exhibit A. In general, the sublease provides the Operator with a 10,000 square foot site to locate a convenience store. The proposed convenience store will be a semi-permanent, multi-sectional facility, such as a doublewide trailer, that will be approximately 7,400 square feet in size provided by the Operator (a site plan is attached to this summary).

The Operator will provide a "general store" that includes the sale of grocery items; the sale and rental of videos, DVD's and video games; a drop location for off-premise laundry and dry cleaning; a deli counter/take-out food area; and other public amenities that may include an ATM and public fax machine. These activities will all be contained within the structure and the external uses are restricted to limited seating for deli patrons and parking associated with the facility.

The store will be located at the corner of 13th and H Streets, which is immediately adjacent to the housing area on Treasure Island proper (see attached photos and map). This block is currently an

empty lot with a mixture of paved and unpaved areas. The operator will be required to make all improvements to the site related to the siting of the structure and the provision of parking areas. In addition, the facility will be required to meet all requirements set forth by the Department of Building Inspections (DBI) and all required improvements for disability access.

The following outlines the other general provisions of the sublease:

- ✓ The term will generally run concurrent with the term of the John Stewart housing sublease, but shall not extend past March 1, 2006. The location at 13th and H Streets is granted to the Operator for a three-year term, at which time the Authority reserves the right, in its sole discretion, to relocate the Operator to another suitable location for the remaining term of the sublease. In the event of relocation, the Authority will offer a rent credit not to exceed $10,000 for expenses associated with relocation.

- ✓ Monthly rent for the property identified above is the greater of $1,500 or 3% of annual gross sales, prorated on a monthly basis. The rent does not include the costs of utilities, nor the Common Area Maintenance (CAM) charge levied by the Navy, both of which must be paid by the Operator. The Operator is responsible for all costs associated with the property, including but not limited to taxes, insurance, and property maintenance costs including landscaping of parking areas.

- ✓ An amount equal to two months rent ($3,000) is required as a security deposit for the property.

- ✓ The Authority and the Navy have the right to approve all signage related to the store. No permanent signage will be allowed at the front gate, but the Authority may allow temporary signage that is removable.

- ✓ The Operator must charge "Reasonable Rates" for merchandise sold at the Premises. For the purposes of the Sublease, Reasonable Rates are rates which are comparable to the rates charged at convenience stores of comparable size and character in the City and County of San Francisco and which do not yield to Operator an average gross margin on all merchandise sold in excess of 35%.

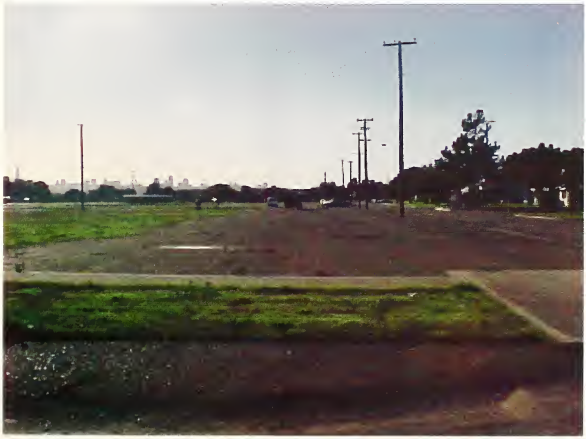
- ✓ The subtenant will use best faith efforts to maintain an employment rate that includes 10% TIHDI program participants.

- ✓ The Authority will use reasonable efforts to not sublease any other property for use as a convenience store, if the principal customer base for such store would be the residential occupants of the Base. However, the Authority may allow a new store so long as it is included as part of a development project in furtherance of the Authority's long-term development plans for the Base, such as in connection with a hotel, marina, ball fields, themed attraction, or other cultural, recreational or entertainment use.

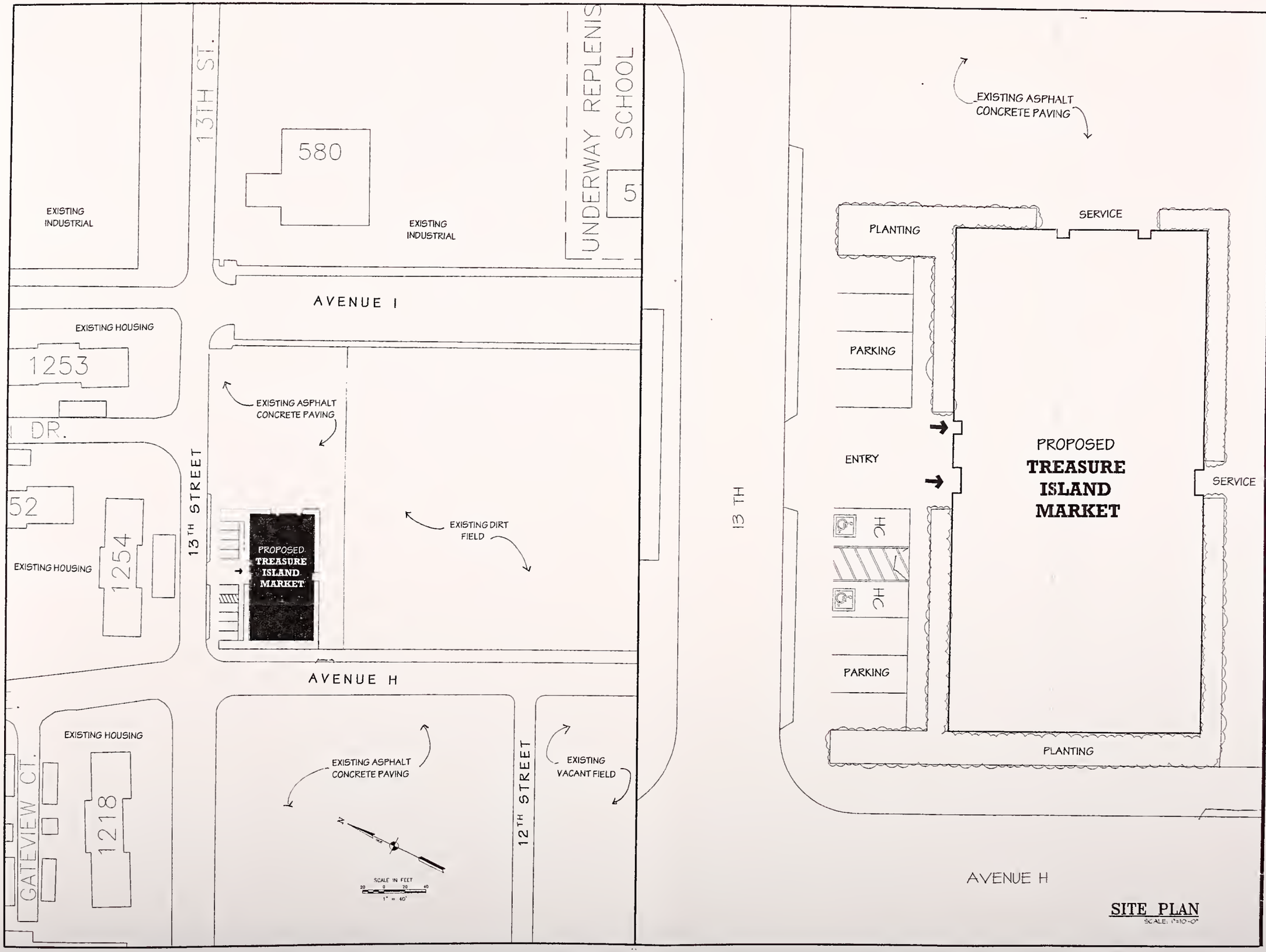
SITE VIEW LOOKING EAST ON 13TH STREET, WEST OF AVENUE H

SITE VIEW LOOKING SOUTH FROM HOUSING BUILDING 1254

SITE VIEW LOOKING NORTH ON AVENUE H



SITE VIEW LOOKING WEST FROM AVENUE I



REVISIONS

THE JOHN STEWART COMPANY
An EDISON CAPITAL HOLDING INVESTMENTS Company
2310 Mason Street San Francisco, CA 94133
Telephone: (415) 391-4321 FAX: (415) 296-7570

PROJECT
TREASURE ISLAND MARKET
Treasure Island
San Francisco, California

SHEET TITLE
PROPOSED
TREASURE ISLAND MARKET
SITE PLAN

SHEET NUMBER
pA-1

DATE ISSUED: December 2, 1999

PROJECT: 10112 | DRAWN BY

[Convenience Store Sublease]

APPROVING AND AUTHORIZING THE TREASURE ISLAND DEVELOPMENT AUTHORITY TO EXECUTE A SUBLEASE WITH THE SUSIE S. PAK COMPANY FOR THE OPERATION OF A CONVENIENCE STORE ON TREASURE ISLAND.

WHEREAS, On May 2, 1997, the Board of Supervisors (the "Board") passed Resolution No. 380-97, authorizing the Mayor's Treasure Island Project Office to establish a nonprofit public benefit corporation known as the Treasure Island Development Authority (the "Authority") to act as a single entity focused on the planning, redevelopment, reconstruction, rehabilitation, reuse and conversion of former Naval Station Treasure Island (the "Base") for the public interest, convenience, welfare and common benefit of the inhabitants of the City and County of San Francisco; and,

WHEREAS, Under the Treasure Island Conversion Act of 1997, which amended Section 33492.5 of the California Health and Safety Code and added Section 2.1 to Chapter 1333 of the Statutes of 1968 (the "Act"), the California legislature (i) designated the Authority as a redevelopment agency under California redevelopment law with authority over the Base upon approval of the City's Board of Supervisors, and, (ii) with respect to those portions of the Base which are subject to the Tidelands Trust, vested in the Authority the authority to administer the public trust for commerce, navigation and fisheries as to such property; and,

WHEREAS, The Tidelands Trust prohibits the sale of trust property into private ownership, generally requires that Tidelands Trust property be accessible to the public and encourages public-oriented uses of trust property that, among other things, attract people to the waterfront, promote public recreation, protect habitat and preserve open space; and,

WHEREAS, In order to facilitate productive reuse and job creation on the Base, it may be beneficial for the Authority to lease or license property from the Navy and, in turn, sublease or sublicense such property to third-parties or use such property for municipal purposes; and,

WHEREAS, On March 17, 1999, the Authority, pursuant to resolutions adopted by the Authority and the City's Board of Supervisors, entered into a Sublease, Development, Marketing and Property Management Agreement (the "Agreement') with the John Stewart Company ("JSCO") to have up to 766 of the housing units on the Base rehabilitated, marketed and leased to residential tenants ("TI Tenants"); and,

WHEREAS, Under Section 30 of the Agreement, The Authority was required to use good faith efforts to work with TIHDI and the JSCO TO establish important commercial services on the Base for TI Tenants, including, a grocery/convenience store (a "Store"), and,

WHEREAS, Under the Agreement, if, by March 31, 1999, neither the Authority nor TIHDI had opened a Store on the Base, the Authority is required to use good faith efforts to enter into a separate sublease with JSCO or another entity reasonably acceptable to JSCO of suitable premises on the Base for a Store, at a location and on terms and conditions mutually acceptable to the Authority and JSCO; and,

WHEREAS, TIHDI elected not to pursue the Store as one of its economic development opportunities on the Base; and,

WHEREAS, after contacting numerous potential operators, JSCO identified the Susie S. Pak Company ("Operator") as an acceptable operator for the Store, and Operator and Authority staff reached tentative agreement on the terms and conditions for a sublease to Operator, including regarding the location of the Store, the length of the sublease term, rent, and limitations on the costs of goods sold; and,

WHEREAS, At its November 10, 1999 meeting, the Authority approved a resolution authorizing staff to negotiate a sublease with Operator for the operation of a convenience store serving the TI Tenants on the Base (the "Premises"); and,

WHEREAS, The Authority staff and Subtenant have negotiated the terms and conditions of a sublease in substantially the form of the sublease attached hereto as Exhibit A (the "Store Sublease"); and,

WHEREAS, Under the Store Sublease, Operator will be allowed to construct a moveable structure on the premises for the purpose of operating a full-service convenience store on the premises, including off-site dry cleaning facilities, video rentals and limited take-out food service; and

WHEREAS, Under the Store Sublease, Operator will pay monthly rent in the amount of the greater of $1,500 per month or 3% of gross sales; and,

WHEREAS, The maximum term of the Store Sublease is approximately six years and three months (with a termination date of March 1, 2006, which is intended to be co-terminous with the Authority's sublease with JSCO); and,

WHEREAS, Under the Store Sublease, the Authority may require Operator to vacate the premises prior to the expiration of the term of the Store Sublease and relocate to another suitable location on the Base, provided the Authority grants Operator a credit against rent otherwise due up to a maximum of $10,000 for Operator's actual relocation costs; Now, therefore, be it

RESOLVED, That the Authority hereby approves and authorizes the Executive Director to enter into the Store Sublease with Operator; and, be it

FURTHER RESOLVED, That the Authority authorizes the Executive Director to enter into modifications to the Store Sublease (including, without limitation, the attachment or modification of exhibits) that are in the best interests of the Authority and the City, do not materially change the terms of the store Sublease, and are necessary and advisable to effectuate the purpose and intent of this resolution.

CERTIFICATE OF SECRETARY

I hereby certify that I am the duly elected and acting Secretary of the Treasure Island Development Authority, a California nonprofit public benefit corporation, and that the above Resolution was duly adopted and approved by the Board of Directors of the Authority at a properly noticed meeting on December 8, 1999.

_____

John Elberling, Secretary

EXHIBIT A

Store Sublease

SUBLEASE

between

THE TREASURE ISLAND DEVELOPMENT AUTHORITY

as Sublandlord

and

SUSIE S. PAK COMPANY

as Subtenant

For the Sublease of

Approximately 10,000 Square Feet of Unimproved Land at the Intersection of 13th and H Streets on
Naval Station Treasure Island
San Francisco, California

December __, 1999

TREASURE ISLAND SUBLEASE

Table of Contents

LIST OF EXHIBITS:

EXHIBIT A -- Master Lease
EXHIBIT B -- Drawing of Premises
EXHIBIT C -- Seismic Report
EXHIBIT D -- Rules and Regulations
EXHIBIT E – Required Alterations
EXHIBIT F – Utilities
EXHIBIT G – Workforce Hiring Agreement

2. COMPLIANCE WITH MASTER LEASE

2.1. Incorporation by Reference. All of the terms and conditions of the Master Lease are hereby incorporated by reference into this Sublease as if fully set forth herein.

2.2. Conflict. If any of the provisions of this Sublease conflict with any portion of the Master Lease as incorporated herein, then the terms of the Master Lease shall govern.

2.3. Compliance with Master Lease. Subtenant shall not do or permit to be done anything which would constitute a violation or a breach of any of the terms, conditions or provisions of the Master Lease or which would cause the Master Lease to be terminated or forfeited by virtue of any rights of termination reserved by or vested in the Master Landlord.

2.4. Automatic Termination. If the Master Lease terminates for any reason whatsoever, this Sublease shall automatically terminate and the Parties shall thereafter be relieved from all liabilities and obligations under this Sublease, except for liabilities and obligations which expressly survive termination of this Sublease. Subtenant acknowledges and agrees that it has reviewed the Master Lease, is aware of the circumstances upon which the Master Lease may be terminated and hereby assumes all risks associated with the automatic termination of this Sublease because of the termination of the Master Lease.

3. TERM

3.1. Term of Sublease. The term of this Sublease (the "Term") shall commence on January 1, 2000 (the "Commencement Date") and shall continue unless sooner terminated pursuant to the provisions of this Sublease, until March 1, 2006 (the "Expiration Date).

3.2. Relocation of Sublease Premises. Sublandlord reserves the right, in its sole discretion, to relocate Subtenant to another mutually acceptable location suitable for providing convenience store services to the residential tenants of the Base on the Property at any time after three years from the Commencement Date of this Sublease (as defined below) for the remaining Term. In the event of any such relocation, the new location shall become the Premises hereunder. Also, in the event of any such relocation, and notwithstanding Section 15.1(d) below, Subtenant shall bear any and all other costs of such relocation, but Sublandlord shall provide Subtenant a rent credit equal to the Subtenant's actual relocation costs, as evidenced by invoices or other supporting documentation reasonably requested by Sublandlord, up to a maximum of Ten Thousand Dollars ($10,000.00) ("the Relocation Costs") . The amount of the rent credit shall be amortized over the remaining Term, provided, however, that, under no circumstances shall Sublandlord be required to reimburse Subtenant for such Relocation Costs, irrespective of whether the remaining Term of the Sublease at the time of such relocation is of sufficient length for Subtenant to amortize the Relocation Costs as a credit against Rent.

4. RENT

4.1. **Base Rent.** Throughout the Term, beginning on the Commencement Date, Subtenant shall pay to Sublandlord Base Rent in the amount of the greater of One Thousand Five Hundred Dollars ($1,500) per month ("Minimum Rent") or three percent (3%) of annual Gross Sales ("Percentage Rent"). Base Rent shall be paid to the Sublandlord without prior demand and without any deduction, setoff, or counterclaim whatsoever. Base Rent shall be payable on or before the first day of each month, in advance, at the Notice Address of Sublandlord provided in Section 20.1 hereof or such other place as Sublandlord may designate in writing. If the Commencement Date occurs on a date other than the first day of a calendar month, or the Sublease terminates on a day other than the last day of a calendar month, then the monthly payment of Base Rent for such fractional month shall prorated based on a thirty (30) day month.

(a) Percentage Rent shall be payable quarterly for each calendar quarter, to the extent in excess of Minimum Rent, within thirty days after the end of such quarter, with an annual reconciliation to be conducted at the time of Subtenant's Annual Review as provided for in Section 4.5(c) below. To the extent that Percentage Rent has been overpaid in any Sublease year, then Subtenant shall receive a credit against the next installment due of Base Rent, and to the extent that Percentage Rent has been underpaid, Subtenant shall pay the additional amount due within 30 days of such annual reconciliation.

(b) "Gross Sales" shall mean any and all income, revenue, compensation or consideration, including but not limited to in-kind consideration, generated from Subtenant's use of the Premises, including, without limitation, the gross selling price of all merchandise or services sold or delivered in or from the Premises, except as hereinafter provided. Gross Sales shall not include sales and use taxes, refundable deposits or fees, in lieu charges and passthroughs such as electrical, water or other utility charges collected by Subtenant from licensees on behalf of utility providers, refunds of payments and uncollected receivables due Subtenant.

4.2. **Additional Charges**. In addition to Base Rent, Subtenant shall pay any and all real property taxes, possessory interest taxes and other costs, impositions and expenses related to the Premises as provided in Section 5 hereof, plus all other charges related to the Premises otherwise payable by Subtenant to Sublandlord hereunder, including, without limitation, all late charges and default interest attributable to late payments and/or defaults of Subtenant hereunder and all utility charges, the common area maintenance charge (the "Navy CAM Charge") levied by the Master Landlord (together, the "Additional Charges"). Together, Base Rent and Additional Charges shall hereinafter be referred to as the "Rent".

4.3. Late Charge. If Subtenant fails to pay any Rent within ten (10) days after the date the same is due and payable, such unpaid amount will be subject to a late payment charge equal to six percent (6%) of the unpaid amount in each instance. The late payment charge has been agreed upon by Sublandlord and Subtenant, after negotiation, as a reasonable estimate of the additional administrative costs and detriment that Sublandlord will incur as a result of any such failure by Subtenant, the actual costs thereof being extremely difficult if not impossible to determine. The late payment charge constitutes liquidated damages to compensate Sublandlord for its damages resulting from such failure to pay and Subtenant shall promptly pay such charge to Sublandlord together with such unpaid amount.

4.4. Default Interest. If any Rent is not paid within ten (10) days following the due date, such unpaid amount shall bear interest from the due date until paid at the rate of ten percent (10%), provided however that interest shall not be payable on late charges incurred by Subtenant nor on any amounts on which late charges are paid by Subtenant to the extent this interest would cause the total interest to be in excess of that which an individual is lawfully permitted to charge. Payment of interest shall not excuse or cure any default by Subtenant.

4.5. Books, Records and Reports.

(a) Books and Records. Subtenant shall establish and maintain books, records and systems of account reflecting all business operations of Subtenant transacted under this Sublease (the "Books and Records"). Subtenant shall maintain such Books and Records at a reasonably accessible location within California.

(b) Regular Reports. Except for the first partial quarter ending on _____, promptly after the close of each calendar quarter but no later than 30 days after such date, Subtenant shall deliver to the Sublandlord a quarterly report on a form acceptable to Sublandlord. Such report shall be certified as true and correct in all material respects by Subtenant and shall include: (i) a statement of the Base Rent (separating out Percentage Rent and Minimum Rent), (ii) a statement of Gross Sales for the preceding quarter, and (iii) such other information as the Sublandlord may reasonably require.

(c) Subtenant's Annual Review. Annually during the Term of this Sublease, within thirty (30) days after the first deadline for filing a tax return for the Sublandlord's fiscal year (*e.g.*, 30 days after April 15 for a calendar year fiscal year) Subtenant shall arrange for a review of the Books and Records by an independent certified public accountant reasonably approved by the Executive Director. Subtenant shall pay all costs and expenses associated with the annual review. Such review shall cover the previous calendar year or portion thereof. Subtenant acknowledges that a primary purpose of such review shall be to enable Subtenant and the Sublandlord to clearly and accurately determine the nature and amount of Gross Sales and to verify the amount of Rent due and payable to Sublandlord and to otherwise determine the accuracy of Subtenant's Books and Records. Subtenant shall deliver an original, signed copy of

each such annual review to the Executive Director of Sublandlord by the earlier of (a) thirty (30) days after the tax filing deadline or (b) if possible using commercially reasonable efforts, 120 days after the end of the 12-month period or portion thereof covered by such review. The foregoing notwithstanding, the first annual review shall be completed and delivered to Sublandlord by no later than January 31, 2001.

(d) **Periodic Audits and Inspections of Records**. After providing Subtenant with 72 hours prior written notice and only during regular business hours, the Sublandlord, its representatives or an independent auditor may audit, examine and make excerpts, copies and transcripts from the Books and Records. The Sublandlord may perform such audit at any time and from time to time during the Term or for a period of three (3) years thereafter. If the Sublandlord's audit shows that there is a deficiency in the payment of any Rent, the deficiency shall become immediately due and payable to the Sublandlord. The costs of any periodic audit shall be paid by the Sublandlord unless the audit shows that Subtenant understated Rent by more than five percent (5%) for the entire period being audited, in which case Subtenant shall pay all of the Sublandlord's reasonable costs of the audit, including, without limitation, consultants, accountants and attorneys' fees, costs of transportation, copying and related expenses.

(e) **Transfer of Records and Accounts**. In the event of termination of this Sublease, Subtenant shall deliver copies of all Books and Records reasonably requested by the Sublandlord to Sublandlord within ten (10) days of such request.

5. TAXES, ASSESSMENTS AND OTHER EXPENSES

5.1. Taxes and Assessments, Licenses, Permit Fees and Liens.

(a) **Payment Responsibility**. Subtenant shall pay any and all real and personal property taxes, including, but not limited to, possessory interest taxes, general and special assessments, excises, licenses, permit fees and other charges and impositions of every description levied on or assessed against the Premises, any Alterations, Subtenant's Personal Property, or Subtenant's use of the Premises or any Alterations during the Term. Subtenant shall make all such payments directly to the charging authority when due and payable and at least ten (10) days prior to delinquency. However, with respect to real property taxes and assessments levied on or assessed against the Premises for which Sublandlord receives the tax bill directly from the taxing authority, Subtenant shall reimburse Sublandlord for payment of such sums immediately upon demand.

(b) **Taxability of Possessory Interest**. Without limiting the foregoing, Subtenant recognizes and agrees that this Sublease may create a possessory interest subject to property taxation and that Subtenant may be subject to the payment of property taxes levied on such interest.

(c) **No Liens**. Subtenant shall not allow or suffer a lien for any taxes payable by Subtenant

hereunder to be imposed upon the Premises or upon any equipment or other property located thereon without discharging the same as soon as practicable, and in no event subsequent to delinquency.

(d) **Reporting Information**. Subtenant agrees to provide such information as Sublandlord may request to enable Sublandlord to comply with any possessory interest tax reporting requirements applicable to this Sublease.

5.2. **Other Expenses**. This is a "triple net" Sublease. Accordingly, Subtenant shall be responsible for any and all other charges, costs and expenses related to its use, occupancy, operation or enjoyment of the Premises or any Alterations permitted thereon, including, without limitation, the cost of any utilities, the Navy CAM Charge, and all property maintenance, including landscaping of parking areas, or any other services necessary for Subtenant's use.

5.3. **Evidence of Payment**. Subtenant shall, upon Sublandlord's request, furnish to Sublandlord within ten (10) days after the date when any charges are due and payable, official receipts of the appropriate taxing authority or other evidence reasonably satisfactory to Sublandlord, evidencing payment thereof.

6. USE; COVENANTS TO PROTECT PREMISES

6.1. **Subtenant's Permitted Use**. Subtenant may use the Premises for the operation of a convenience store for the residential tenants of the Base as provided herein, and for no other purpose without the prior written consent of Sublandlord's Executive Director.

(a) **Permitted Goods and Services.** Subtenant may provide or arrange to have provided the follow types of goods and services as part of its operation of the convenience store: (i) general grocery items; (ii) VHS, DVD and video game sales and rentals; (iii) on-site, take-out food service with limited on-site seating; (iv) gift and tourist items; (v) off premises dry cleaning and laundry service; and (v) other services such as ATMs, a public fax machine and telephones. Subtenant must obtain the prior written approval of Sublandlord's Executive Director to offer any goods or services other than those set forth herein. Notwithstanding the foregoing permitted goods and services, Subtenant agrees that the primary purpose of the convenience store is to provide general grocery items, and Subtenant shall devote more of the space within any building erected on Premises to serving this purpose than to any other permitted purpose.

(b) Reasonable Rates. Subtenant shall at all times during the term of the Sublease charge "Reasonable Rates" for merchandise sold at the Premises. For the purposes of the Sublease, Reasonable Rates shall mean rates which are comparable to the rates charged at convenience stores of comparable size and character in the City and County of San Francisco and which do not yield to Subtenant an average gross margin on [Subtenant's costs of goods sold] for all merchandise sold in excess of 35%.

6.2. Primary Provider to Residential Occupants. For the Term of the Sublease, the Sublandlord shall use good faith efforts to preserve Subtenant's status as the primary convenience store retailer of the goods and services permitted to be sold by Subtenant hereunder to the residential occupants of the Base. Notwithstanding the foregoing, nothing herein shall limit or otherwise restrict the Authority or any of its tenants, subtenants, transferees, successors or assigns to develop, own and/or operate a convenience store on the Base to the extent the principal customer base for such convenience store would not be intended to be the residential occupants of the Base, including if any such convenience store is included as part of a development project in furtherance of the Authority's long-term development plans for the Base, such as, by way of example only and without limitation, in connection with a hotel, marina, ball fields, themed attraction, or other cultural recreational or entertainment use.

6.3. Rules and Regulations. Subtenant agrees to adhere to all rules and regulations regarding the Premises attached hereto as Exhibit D, and any additional rules regarding security, ingress, egress, safety and sanitation applicable to the Premises or the Property, as such rules and regulations may be prescribed by Master Landlord or Sublandlord from time to time and which are provided to Subtenant in advance of the enforcement thereof.

6.4. Easements. This Sublease shall be subject to all outstanding easements and rights-of-way for location of any type of facility over, across, in, and upon the Premises or any portion thereof, and to the right of Master Landlord to grant such additional easements and rights-of-way over, across, in and upon the Premises as Master Landlord shall determine to be in the public interest ("Additional Easements"), provided that, as provided in Section 29 of the Master Lease, Master Landlord shall use its best efforts to minimize any interference with Subtenant's operations hereunder caused by the granting of any such Additional Easements and the granting of such Additional Easements shall be conditioned on the assumption by the grantee thereof of liability to Subtenant for such damages as Subtenant shall suffer for property destroyed or property rendered unusable on account of the grantee's exercise of its rights thereunder. There is hereby reserved to the holders of such Additional Easements as are presently outstanding or which may hereafter be granted, to any workers officially engaged in the construction, installation, maintenance, operation, repair or replacement of facilities located thereon, and to any federal, state or local official engaged in the official inspection thereof, such reasonable rights of ingress and egress over the Premises as shall be necessary for the performance of their duties with regard to such facilities.

6.5. **No Interference with Navy Operations**. Subtenant shall not conduct operations, nor make any Alterations (as defined below), that would interfere with or otherwise restrict Master Landlord's operations or environmental clean-up or restoration actions by the Master Landlord, Sublandlord, the Environmental Protection Agency, the State of California or their contractors. Environmental clean-up, restoration or testing activities by these Parties shall take priority over the Subtenant's use of the Premises in the event of any conflict, provided, however, in such event, Master Landlord and Sublandlord shall use their best efforts to minimize any disruption of Subtenant's operation.

6.6. **No Unlawful Uses, Nuisances or Waste**. Without limiting the foregoing, Subtenant shall not use, occupy or permit the use or occupancy of any of the Premises in any unlawful manner or for any illegal purpose, or permit any offensive, noisy or hazardous use or any waste on or about the Premises. Subtenant shall eliminate any nuisances or hazards relating to its activities on or about the Premises.

7. ALTERATIONS

7.1. **Required Alterations**. As partial consideration for this Sublease, Subtenant shall prepare the Premises for, and cause to be constructed thereon, a moveable structure suitable for the convenience store operations contemplated herein (the "Building"), and shall make such other improvements as are necessary to landscape the Premises, to connect to existing utility systems, or to otherwise comply with the plans and specifications more particularly set forth on Exhibit E attached hereto (the "Required Alterations").

7.2. **Alterations**. Subtenant shall not construct, install, make or permit to be made any alterations, installations or additions other than the Required Alterations (the "Other Alterations", and together with the Required Alterations, the "Alterations") in, to or about the Premises, without Sublandlord's prior written consent in each instance, which consent may given or withheld in Sublandlord's sole and absolute discretion. Subject to Sublandlord's consent as provided above, any Alterations shall be done at Subtenant's sole expense (i) in strict accordance with plans and specifications approved in advance by Sublandlord in writing, (ii) by duly licensed and bonded contractors or mechanics approved by Sublandlord or by program youths and staff under the supervision of qualified professionals, (iii) in a good and professional manner, (iv) in strict compliance with all Laws, and (v) subject to all other conditions that Sublandlord may reasonably impose. In no event shall the construction , installation or the making of any Alterations impair the use or operation of the Property, or any portion thereof, or Sublandlord's or Master Landlord's access thereto. Prior to the commencement of any work on the Premises to construct any Alterations, Subtenant, at its sole expense, shall procure all required permits and approvals and shall promptly upon receipt deliver copies of all such documents to Sublandlord. No material change from plans and specifications for any Alterations approved by Sublandlord may be made without Sublandlord's prior consent. Sublandlord and Sublandlord's Agents shall have the right to inspect the course of construction on the Premises at all times.

7.3. Ownership of Alterations. Any Alterations constructed on or affixed to the Premises by or on behalf of Subtenant pursuant to the terms and limitations of this Section 7 shall be and remain Subtenant's property during the Term. Upon the termination of this Sublease, Subtenant shall remove all such Alterations from the Premises in accordance with the provisions of Section 18 hereof, unless Sublandlord, at its sole option and without limiting any of the provisions of Section 7.1 above, requires that such Alterations remain on the Premises following the expiration or termination of this Sublease, provided that the Building shall be considered Subtenant's Personal property under Section 7.4 below..

7.4. Subtenant's Personal Property. All furniture, furnishings and articles of movable personal property and equipment installed in the Premises by or for the account of Subtenant that can be removed without structural or other material damage to the Premises (all of which are herein called "Subtenant's Personal Property") shall be and remain the property of Subtenant and shall be removed by Subtenant, subject to the provisions of Section 18 hereof. Subtenant shall be solely responsible for providing any security or other protection of or maintenance to Subtenant's Personal Property.

8. REPAIRS AND MAINTENANCE

8.1. Subtenant Responsible for Maintenance and Repair. Subtenant assumes full and sole responsibility for the condition, operation, repair and maintenance and management of the Premises from and after the Commencement Date and shall keep the Premises in good condition and repair. Sublandlord shall not be responsible for the performance of any repairs, changes or alterations to the Premises, nor shall Sublandlord be liable for any portion of the cost thereof. Subtenant shall make all repairs and replacements, interior and exterior, structural as well as non-structural, ordinary as well as extraordinary, foreseen and unforeseen, which may be necessary to maintain the Premises at all times in clean, safe, attractive and sanitary condition and in good order and repair, to Sublandlord's and Master Landlord's reasonable satisfaction, provided, however, that neither Subtenant nor Sublandlord shall be required to make structural repairs or Alterations to correct conditions affecting the Premises existing prior to the Commencement Date. If any portion of the Premises is damaged by any activities conducted by Subtenant or Subtenant's Agents or Subtenant's Invitees hereunder, Subtenant shall immediately, at its sole cost, repair all such damage and restore the Premises to its previous condition.

8.2. Utilities. Sublandlord shall provide the basic building utilities and services described in the attached Exhibit F (the "Standard Utilities and Services") to the Premises, subject to the terms and conditions contained therein. Subtenant shall be responsible for furnishing, at its sole costs, any utilities or services other than or in excess of the Standard Utilities and Services that Subtenant may need for its use of the Premises. Subtenant shall pay, without set of or counterclaim, all amounts due and owing for such Standard Utilities and Services at the rates

provided in and as otherwise set forth in Exhibit F.

8.3. **Janitorial Services**. Subtenant shall provide all janitorial services for the Premises.

8.4. **Pest Control**. Subtenant shall provide and pay for all pest control services required within the Premises, and shall keep the Premises free of all pests at all times.

8.5. **Trash**. Subtenant shall deposit all trash into designated containers in the Premises in compliance with the Rules and Regulations attached hereto as Exhibit D. Subtenant shall pay for the removal of trash from the designated containers. Subtenant shall abide by all rules established by Sublandlord or Master Landlord for the handling of trash.

8.6. **No Right to Repair and Deduct**. Subtenant expressly waives the benefit of any existing or future Laws or judicial or administrative decision that would otherwise permit Subtenant to make repairs or replacements at Sublandlord's expense, or to terminate this Sublease because of Sublandlord's failure to keep the Premises or any part thereof in good order, condition or repair, or to abate or reduce any of Subtenant's obligations hereunder on account of the Premises or any part thereof being in need of repair or replacement. Without limiting the foregoing, Subtenant expressly waives the provisions of California Civil Code Sections 1932, 1941 and 1942 or any similar Laws with respect to any right of Subtenant to terminate this Sublease and with respect to any obligations of Sublandlord hereunder or and any right of Subtenant to make repairs or replacements and deduct the cost thereof.

9. LIENS

Subtenant shall keep the Premises free from any liens arising out of any work performed, material furnished or obligations incurred by or for Subtenant. In the event Subtenant does not, within five (5) days following the imposition of any such lien, cause the lien to be released of record by payment or posting of a proper bond, Sublandlord shall have in addition to all other remedies provided herein and by law or equity the right, but not the obligation, to cause the same to be released by such means as it shall deem proper, including, but not limited to, payment of the claim giving rise to such lien. All such sums paid by Sublandlord and all expenses it incurs in connection therewith (including, without limitation, reasonable attorneys' fees) shall be payable to Sublandlord by Subtenant upon demand. Sublandlord shall have the right at all times to post and keep posted on the Premises any notices permitted or required by law or that Sublandlord deems proper for its protection and protection of the Premises from mechanics' and materialmen's liens. Subtenant shall give Sublandlord at least fifteen (15) days' prior written notice of the commencement of any repair or construction on any of the Premises.

10. COMPLIANCE WITH LAWS

10.1. **Compliance with Laws**. Subtenant shall promptly, at its sole expense, maintain the

Premises and Subtenant's use and operations thereon in strict compliance at all times with all present and future Laws, whether foreseen or unforeseen, ordinary as well as extraordinary, provided however, that Subtenant shall not be required to make repairs or structural changes to the Premises required solely to correct conditions affecting the Premises existing prior to the Commencement Date or not related to Subtenant's use of the Premises, unless the requirement for such changes is imposed as a result of any Alterations made or requested to be made by Subtenant. Such Laws shall include, without limitation, all Laws relating to health and safety and disabled accessibility including, without limitation, the Americans with Disabilities Act, 42 U.S.C.S. §§ 12101 et seq. and Title 24 of the California Code of Regulations, all present and future Environmental Laws (as defined in this Sublease below). No occurrence or situation arising during the Term, nor any present or future Law, whether foreseen or unforeseen, and however extraordinary, shall give Subtenant any right to seek redress against Sublandlord for failing to comply with any Laws. Subtenant waives any rights now or hereafter conferred upon it by any existing or future Law to compel Sublandlord to make any repairs to comply with any such Laws, on account of any such occurrence or situation.

10.2. Regulatory Approvals.

(a) Responsible Party. Subtenant understands and agrees that Subtenant's use of the Premises and construction of the Alterations permitted hereunder may require authorizations, approvals or permits from governmental regulatory agencies with jurisdiction over the Premises. Subtenant shall be solely responsible for obtaining any and all such regulatory approvals, including without limitation any liquor permits or approvals. Subtenant shall not seek any regulatory approval without first obtaining the written consent of Sublandlord. Subtenant shall bear all costs associated with applying for, obtaining and maintaining any necessary or appropriate regulatory approval and shall be solely responsible for satisfying any and all conditions imposed by regulatory agencies as part of a regulatory approval. Any fines or penalties levied as a result of Subtenant's failure to comply with the terms and conditions of any regulatory approval shall be immediately paid and discharged by Subtenant, and Sublandlord shall have no liability, monetary or otherwise, for any such fines or penalties. Subtenant shall indemnify, protect, defend and hold harmless forever ('Indemnify") the Sublandlord and City, including, but not limited to, all of their respective officers, directors, employees , agents, affiliates, subsidiaries, licensees, contractors, boards, commissions, departments, agencies and other subdivisions and each of the persons acting by, through or under each of them, and their respective heirs, legal representatives, successors and assigns, and each of them (the "Indemnified Parties") against any and all claims, demands, losses, liabilities, damages, liens, injuries, penalties, fines, lawsuits and other proceedings, judgments and awards and costs and expenses, including, without limitation, reasonable attorneys' and consultants' fees and costs ("Losses") arising in connection with Subtenant's failure to obtain or comply with the terms and conditions of any regulatory approval.

10.3. Compliance with Sublandlord's Risk Management Requirements. Subtenant shall

not do anything, or permit anything to be done, in or about the Premises or to any Alterations permitted hereunder that would create any unusual fire risk, and shall take commercially reasonable steps to protect Sublandlord from any potential premises liability. Subtenant shall faithfully observe, at its expense, any and all reasonable requirements of Sublandlord's Risk Manager with respect thereto and with the requirements of any policies of commercial general, all risk property or other policies of insurance at any time in force with respect to the Premises and any Alterations as required hereunder.

11. ENCUMBRANCES

11.1. Encumbrance By Subtenant. Notwithstanding anything to the contrary contained in this Sublease, Subtenant shall not under any circumstances whatsoever create any mortgage, deed of trust, assignment of rents, fixture filing, security agreement, or similar security instrument, or other lien or encumbrance or assignment or pledge of an asset as security in any manner against the Premises or Sublandlord's or Subtenant's interest under this Sublease.

12. DAMAGE OR DESTRUCTION

12.1. Damage or Destruction to the Premises. In the case of damage to or destruction of the Premises by earthquake, flood or any other casualty, which (i) is not caused by Subtenant or Subtenant's Agents or Subtenant's Invitees, (ii) is not covered by the insurance described in Section 16 below, (iii) prevents Subtenant from operating the Premises for the purposes stated herein, and (iv) costs more than Ten Thousand Dollars ($10,000) to repair, Subtenant may terminate this Sublease upon thirty (30) days prior written notice and upon any such termination Subtenant shall surrender the Premises in accordance with Section 18 (except for damage caused by the casualty pursuant to which the Sublease may be terminated under this Section 12.1) and both Parties shall be relieved of any liability for such termination or for repairing such damage. Except as specifically provided above, Subtenant shall, at its sole cost, promptly restore, repair, replace or rebuild the Premises to the condition the Premises were in prior to such damage or destruction, subject to any Alterations made in strict accordance with the requirements of Section 7.1 above. Under no circumstances shall Sublandlord have any obligation to repair, replace or rebuild the Premises in the event of a casualty.

12.2. No Abatement in Rent. In the event of any damage or destruction to the Premises, and if neither party terminates this Sublease as provided in Section 12.1 above, there shall be no abatement in the Rent payable hereunder.

12.3. Waiver. The Parties understand and agree that the foregoing provisions of this Section are intended to govern fully the rights and obligations of the Parties in the event of damage or destruction to the Premises or Alterations, and Sublandlord and Subtenant each hereby waives and releases any right to terminate this Sublease in whole or in part under Sections 1932.2 and 1933.4 of the Civil Code of California or under any similar Laws now or hereafter in effect, to

the extent such rights are inconsistent with the provisions hereof.

13. ASSIGNMENT AND SUBLETTING

13.1. Restriction on Assignment and Subletting. Subtenant shall not directly or indirectly (including, without limitation, by merger, acquisition or other transfer of any controlling interest in Subtenant), voluntarily or by operation of Law, sell, assign, encumber, pledge or otherwise transfer any part of its interest in or rights with respect to the Premises, any Alterations or its interest in this Sublease, or permit any portion of the Premises to be occupied by anyone other than itself, or sublet any portion of the Premises, without Sublandlord's prior written consent in each instance, which Sublandlord may grant or withhold in its sole and absolute discretion.

14. DEFAULT; REMEDIES

14.1. Events of Default. Any of the following shall constitute an event of default ("Event of Default") by Subtenant hereunder:

(a) Failure to Pay Rent. Any failure to pay any Rent or any other sums due hereunder, including sums due for utilities, within five (5) days after such sums are due;

(b) Covenants, Conditions and Representations. Any failure to perform or comply with any other covenant, condition or representation made under this Sublease, provided Subtenant shall have a period of ten (10) days from the date of written notice from Sublandlord of such failure within which to cure such default under this Sublease, or, if such default is not capable of cure within such 10-day period, Subtenant shall have a reasonable period to complete such cure if Subtenant promptly undertakes action to cure such default within such 10-day period and thereafter diligently prosecutes the same to completion and uses its best efforts to complete such cure within sixty (60) days after the receipt of notice of default from Sublandlord.

(c) Vacation or Abandonment. Any abandonment of the Premises for more than fourteen (14) consecutive days; and

(d) Bankruptcy. The appointment of a receiver to take possession of all or substantially all of the assets of Subtenant, or an assignment by Subtenant for the benefit of creditors, or any action taken or suffered by Subtenant under any insolvency, bankruptcy, reorganization, moratorium or other debtor relief act or statute, whether now existing or hereafter amended or enacted.

14.2. Remedies. Upon the occurrence of an Event of Default by Subtenant, Sublandlord shall have the following rights and remedies in addition to all other rights and remedies available to Sublandlord at Law or in equity:

(a) Terminate Sublease and Recover Damages. The rights and remedies provided by law California Civil Code Section 1951.2 (damages on termination for breach), including, but not limited to, the right to terminate Subtenant's right to possession of the Premises and to recover the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of rental loss for the same period that Subtenant proves could be reasonably avoided, as computed pursuant to subsection (b) of such Section 1951.2. Sublandlord's efforts to mitigate the damages caused by Subtenant's breach of this Sublease shall not waive Sublandlord's rights to recover unmitigated damages upon termination.

(b) Appointment of Receiver. The right to have a receiver appointed for Subtenant upon application by Sublandlord to take possession of the Premises and to apply any rental collected from the Premises and to exercise all other rights and remedies granted to Sublandlord pursuant to this Sublease.

14.3. Sublandlord's Right to Cure Subtenant's Defaults. If Subtenant defaults in the performance of any of its obligations under this Sublease, then Sublandlord may at any time thereafter with three (3) days prior written notice (except in the event of an emergency as determined by Sublandlord), remedy such Event of Default for Subtenant's account and at Subtenant's expense. Subtenant shall pay to Sublandlord, as Additional Charges, promptly upon demand, all sums expended by Sublandlord, or other costs, damages, expenses or liabilities incurred by Sublandlord, including, without limitation, reasonable attorneys' fees, in remedying or attempting to remedy such Event of Default. Subtenant's obligations under this Section shall survive the termination of this Sublease. Nothing herein shall imply any duty of Sublandlord to do any act that Subtenant is obligated to perform under any provision of this Sublease, and Sublandlord's cure or attempted cure of Subtenant's Event of Default shall not constitute a waiver of Subtenant's Event of Default or any rights or remedies of Sublandlord on account of such Event of Default.

15. RELEASE AND WAIVER OF CLAIMS; INDEMNIFICATION

15.1. Release and Waiver of Claims. Subtenant, on behalf of itself and Subtenant's Agents, covenants and agrees that the Indemnified Parties shall not be responsible for or liable to Subtenant for, and, to the fullest extent allowed by any Laws, Subtenant hereby waives all rights against the Indemnified Parties and releases them from, any and all Losses, including, but not limited to, incidental and consequential damages, relating to any injury, accident or death of any person or loss or damage to any property, in or about the Premises, from any cause whatsoever, including without limitation, partial or complete collapse of the Premises due to an earthquake or subsidence, except only to the extent such Losses are caused exclusively by the gross negligence or willful misconduct of the Indemnified Parties (except as provided in Section 15.1(e) below). Without limiting the generality of the foregoing:

(a) Subtenant expressly acknowledges and agrees that the consideration and other sums

payable hereunder does not take into account any potential liability of the Indemnified Parties for any consequential or incidental damages including, but not limited to, lost profits arising out of disruption to Subtenant's uses hereunder. Sublandlord would not be willing to enter into this Sublease in the absence of a complete waiver of liability for consequential or incidental damages due to the acts or omissions of the Indemnified Parties , and Subtenant expressly assumes the risk with respect thereto. Accordingly, without limiting any indemnification obligations of Subtenant or other waivers contained in this Sublease and as a material part of the consideration for this Sublease, Subtenant fully RELEASES, WAIVES AND DISCHARGES forever any and all claims, demands, rights, and causes of action for consequential and incidental damages and covenants not to sue the Indemnified Parties for such damages arising out of this Sublease or the uses authorized hereunder, including, without limitation, any interference with uses conducted by Subtenant pursuant to this Sublease regardless of the cause.

(b) Without limiting any indemnification obligations of Subtenant or other waivers contained in this Sublease and as a material part of the consideration for this Sublease, Subtenant fully RELEASES, WAIVES AND DISCHARGES forever any and all claims, demands, rights, and causes of action against, and covenants not to sue the Indemnified Parties under any present or future Laws, statutes, or regulations, including, but not limited to, any claim for inverse condemnation or the payment of just compensation under the law of eminent domain, or otherwise at equity, in the event that Sublandlord terminates this Sublease because of such claim for inverse condemnation or eminent domain.

(c) As part of Subtenant's agreement to accept the Premises in its "As Is" condition as provided herein, and without limiting such agreement and any other waiver contained herein, Subtenant on behalf of itself and its successors and assigns, waives its right to recover from, and forever RELEASES , WAIVES AND DISCHARGES, the Indemnified Parties from any and all Losses, whether direct or indirect, known or unknown, foreseen and unforeseen, that may arise on account of or in any way be connected with the physical or environmental condition of the Premises and any related improvements or any Laws or regulations applicable thereto or the suitability of the Premises for Subtenant's intended use.

(d) Subtenant acknowledges that it will not be a displaced person at the time this Sublease is terminated, and Subtenant fully RELEASES, WAIVES AND DISCHARGES, the Indemnified Parties from any and all Losses and any and all claims , demands or rights against any of the Indemnified Parties under any present and future Laws, including, without limitation, any and all claims for relocation benefits or assistance form the Indemnified Parties under federal and state relocation assistance laws.

(e) Subtenant covenants and agrees never to file, commence, prosecute or cause to be filed, commenced or prosecuted against the Indemnified Parties any claim, action or proceeding based upon any claims, demands, causes of action, obligations, damages, losses, costs, expenses or liabilities of any nature whatsoever encompassed by the waivers and releases set forth in this

Section 15.1.

(f) In executing these waivers and releases, Subtenant has not relied upon any representation or statement other than as expressly set forth herein.

(g) Subtenant had made such investigation of the facts pertaining to these waivers and releases it deems necessary and assumes the risk of mistake with respect to such facts. These waivers and releases are intended to be final and binding on Subtenant regardless of any claims of mistake.

(h) In connection with the foregoing releases, Subtenant acknowledges that it is familiar with Section 1542 of the California Civil Code, which reads:

> **A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.**

Subtenant acknowledges that the releases contained herein includes all known and unknown, disclosed and undisclosed, and anticipated and unanticipated claims. Subtenant realizes and acknowledges that it has agreed upon this Sublease in light of this realization and, being fully aware of this situation, it nevertheless intends to waive the benefit of Civil Code Section 1542, or any statute or other similar law now or later in effect. The waivers and releases contained herein shall survive any termination of this Sublease.

15.2. **Subtenant's Indemnity**. Subtenant, on behalf of itself and Subtenant's Agents, shall Indemnify the Indemnified Parties from and against any and all Losses arising out of Subtenant's use of the Premises, including but not limited to, any Losses arising out of: (a) any damage to or destruction of any property owned by or in the custody of Subtenant or Subtenant's Agents or Subtenant's Invitees, (b) any accident, injury to or death of a person, including, without limitation, Subtenant's Agents and Subtenant's Invitees, howsoever or by whomsoever caused, occurring in, on or about the Premises (c) any default by Subtenant in the observation or performance of any of the terms, covenants or conditions of this Sublease to be observed or performed on Subtenant's part; (d) the use, occupancy, conduct or management, or manner of use, occupancy, conduct or management by Subtenant, Subtenant's Agents or Subtenant's Invitees or any person or entity claiming through or under any of them, of the Premises or any Alterations; (e) any construction or other work undertaken by Subtenant on or about the Premises; except to the extent that such Indemnity is void or otherwise unenforceable under any applicable Laws in effect on or validly retroactive to the date of this Sublease and further except only to the extent such Losses are caused by the gross negligence and intentional wrongful acts and omissions of the Indemnified Parties. The foregoing Indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and

Sublandlord's costs of investigating any Loss. Subtenant specifically acknowledges and agrees that it has an immediate and independent obligation to defend Sublandlord and the other Indemnified Parties from any claim which actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to Subtenant by Sublandlord and continues at all times thereafter. Subtenant's obligations under this Section shall survive the expiration or sooner termination of this Sublease.

16. INSURANCE [Amounts and types of coverage required to be reviewed by City's Risk Manager]

16.1. **Subtenant's Insurance**. Subtenant shall procure and maintain throughout the Term of this Sublease and pay the cost thereof the following insurance:

(a) **Property Insurance**. Subtenant shall procure and maintain, at its own cost, a standard fire and extended coverage insurance policy insuring the Premises, including, without limitation, the Premises and all fixtures, Alterations, furniture and equipment located thereon, in an amount not less than the full replacement value.

(b) **Public Liability and Other Insurance**. Subtenant shall at all times, at its cost, also maintain insurance for the mutual benefit of Sublandlord and Subtenant against:

(i) Claims for personal injury under a policy of commercial general liability insurance, including without limitation, claims for bodily injury , property damage or employer's liability occurring in or upon the Premises, in an amount not less than $5,000,000 combined single limit. Such insurance shall provide coverage at least as broad as provided under Insurance Service Form Number CG-00-01-11-88.

(ii) Worker's compensation insurance with employer's liability insurance covering all persons employed and with respect to whom death or bodily injury claims could be asserted against Sublandlord, Subtenant, the Premises or any other Sublandlord property, in an amount not less than $1,000,000 each accident.

(iii) Automobile liability insurance with limits not less than $1,000,000 each occurrence combined single limit for bodily injury and property damage, including owned and non-owned and hired vehicles, if Subtenant uses automobiles in connection with its use of the Premises. Such insurance shall provide coverage at least as broad as provided under Insurance Service Form Number CA-00-01-06-92.

16.2. **General Requirements**. All insurance provided for under this Sublease shall be effected under valid enforceable policies issued by insurers of recognized responsibility and reasonably approved by Sublandlord.

(a) Should any of the required insurance be provided under a claims-made form, Subtenant shall maintain such coverage continuously throughout the term hereof and, without lapse, for a period of three (3) years beyond the expiration or termination of this Sublease, to the effect that, should occurrences during the Term give rise to claims made after expiration or termination of this Sublease, such claims shall be covered by such claims-made policies.

(b) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general aggregate limit shall double the occurrence or claims limits specified above.

(c) All liability insurance policies shall be endorsed to provide the following:

(i) Cover Subtenant as the insured and the Sublandlord and the Master Landlord as additional insureds.

(ii) That such policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of this Sublease, and that insurance applies separately to each insured against whom claim is made or suit is brought. Such policies shall also provide for severability of interests and that an act or omission of one of the named insureds which would void or otherwise reduce coverage shall not reduce or void the coverage as to any insured, and shall afford coverage for all claims based on acts, omissions, injury or damage which occurred or arose (or the onset of which occurred or arose) in whole or in part during the policy period.

(iii) All policies shall be endorsed to provide thirty (30) days' advance written notice to Sublandlord of cancellation, non-renewal or reduction in coverage, mailed to the address(es) for Sublandlord set forth in the Basic Sublease Information.

16.3. **Proof of Insurance**. Subtenant shall deliver to Sublandlord certificates of insurance in form and with insurers satisfactory to Sublandlord, evidencing the coverages required hereunder, on or before the Commencement Date, together with complete copies of the policies promptly upon Sublandlord's request, and Subtenant shall provide Sublandlord with certificates or policies thereafter at least thirty (30) days before the expiration dates of expiring policies. As to the insurance required pursuant to Section 16.1(b)(1) above, such certificate shall state, among other things, that such insurance coverage includes and shall cover Subtenant's indemnity obligations under Section 15.2 above. In the event Subtenant shall fail to procure such insurance, or to deliver such policies or certificates, Sublandlord may, at its option, procure the same for the account of Subtenant, and the cost thereof shall be paid to Sublandlord within five (5) days after delivery to Subtenant of bills therefor.

16.4. **No Limitation on Indemnities**. Subtenant's compliance with the provisions of this Section shall in no way relieve or decrease Subtenant's indemnification obligations herein or any of Subtenant's other obligations or liabilities under this Sublease.

16.5. **Lapse of Insurance**. Notwithstanding anything to the contrary in this Sublease, Sublandlord may elect in Sublandlord's sole and absolute discretion to terminate this Sublease upon the lapse of any required insurance coverage by written notice to Subtenant.

16.6. **Subtenant's Personal Property**. Subtenant shall be responsible, at its expense, for separately insuring Subtenant's Personal Property.

17. ACCESS BY SUBLANDLORD

17.1. **Access to Premises by Sublandlord**.

(a) **General Access**. Sublandlord reserves for itself and Sublandlord's Agents, the right to enter the Premises and any portion thereof at all reasonable times upon not less than twenty-four (24) hours oral or written notice to Subtenant (except in the event of an emergency) for any purpose.

(b) **Emergency Access**. In the event of any emergency, as determined by Sublandlord, Sublandlord may, at its sole option and without notice, enter the Premises and alter or remove any Alterations or Subtenant's Personal Property on or about the Premises. Sublandlord shall have the right to use any and all means Sublandlord considers appropriate to gain access to any portion of the Premises in an emergency. In such case, Sublandlord shall not be responsible for any damage or injury to any such property, nor for the replacement of any such property and any such emergency entry shall not be deemed to be a forcible or unlawful entry onto or a detainer of, the Premises, or an eviction, actual or constructive, of Subtenant from the Premises or any portion thereof.

(c) **No Liability**. Sublandlord shall not be liable in any manner, and Subtenant hereby waives any claims, for any inconvenience, disturbance, loss of business, nuisance or other damage arising out of Sublandlord's entry onto the Premises, except damage resulting directly and exclusively from the gross negligence or willful misconduct of Sublandlord or Sublandlord's Agents and not contributed to by the acts, omissions or negligence of Subtenant, Subtenant's Agents or Subtenant's Invitees.

17.2. **Access to Premises by Master Landlord**. Subtenant acknowledges and agrees that Master Landlord shall have all of the rights of access to the Premises described in the Master Lease.

18. SURRENDER

18.1. **Surrender of the Premises**. Upon the termination of this Sublease, Subtenant shall surrender to Sublandlord the Premises in the same condition as of the Commencement Date, ordinary wear and tear excepted, and free and clear of all liens, easements and other Encumbrances created or suffered by, through or under Subtenant. On or before any termination hereof, Subtenant shall, at its sole cost, remove any and all of Subtenant's Personal Property from the Premises and demolish and remove any and all Alterations from the Premises (except for any Alterations that Sublandlord agrees are to remain part of the Premises pursuant to the provisions of Section 7.4 above). In addition, Subtenant shall, at its sole expense, repair any damage to the Premises resulting from the removal of any such items and restore the Premises to their condition immediately prior to the presence of any Alterations. In connection therewith, Subtenant shall obtain any and all necessary permits and approvals, including, without limitation, any environmental permits, and execute any manifests or other documents necessary to complete the demolition, removal or restoration work required hereunder. Subtenant's obligations under this Section shall survive the termination of this Sublease. Any items of Subtenant's Personal Property remaining on or about the Premises after the termination of this Sublease may, at Sublandlord's option and after thirty (30) days written notice to Subtenant, be deemed abandoned and in such case Sublandlord may dispose of such property in accordance with Section 1980 et seq. of the California Civil Code or in any other manner allowed by Law.

If Subtenant fails to surrender the Premises to Sublandlord upon the termination of this Sublease as required by this Section, Subtenant shall Indemnify Sublandlord against all Losses resulting therefrom, including, without limitation, Losses made by a succeeding Subtenant resulting from Subtenant's failure to surrender the Premises.

18.2. **Security Deposit**. Subtenant shall pay to Sublandlord upon execution of this Sublease a security deposit in the amount of Three Thousand Dollars ($3,000) as security for the faithful performance of all terms, covenants and conditions of this Sublease. Subtenant agrees that Sublandlord may (but shall not be required to) apply the security deposit in whole or in part to remedy any damage to the Premises caused by Subtenant, Subtenant's Agents or Subtenant's Invitees, or any failure of Subtenant to perform any other terms, covenants or conditions contained in this Sublease, without waiving any of Sublandlord's other rights and remedies hereunder or at Law or in equity. Should Sublandlord use any portion of the security deposit to cure any Event of Default by Subtenant hereunder, Subtenant shall immediately replenish the security deposit to the original amount, and Subtenant's failure to do so within five (5) days of Sublandlord's notice shall constitute a material Event of Default under this Sublease. Sublandlord's obligations with respect to the security deposit are solely that of debtor and not trustee. Sublandlord shall not be required to keep the security deposit separate from its general funds, and Subtenant shall not be entitled to any interest on such deposit. The amount of the security deposit shall not be deemed to limit Subtenant's liability for the performance of any of its obligations under this Sublease. To the extent that Sublandlord is not entitled to retain or apply the security deposit pursuant to this Section 18.2, Sublandlord shall return such security

deposit to Sublandlord within forty-five (45) days of the termination of this Sublease.

19. HAZARDOUS MATERIALS

19.1. No Hazardous Materials. Subtenant covenants and agrees that neither Subtenant nor any of Subtenant's Agents or Subtenant's Invitees shall cause or permit any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment, including, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Sections 9601 et seq.) or pursuant to Section 25281 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the structure of any existing improvements on the Premises, or are naturally occurring substances on, in or about the Premises; and petroleum, including crude oil or any fraction thereof, and natural gas or natural gas liquids ("Hazardous Material") to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises or transported to or from the Premises without the prior written approval of Sublandlord, which approval may be withheld in Sublandlord's sole and absolute discretion. Subtenant shall immediately notify Sublandlord if and when Subtenant learns or has reason to believe there has been any release of Hazardous Material in, on or about the Premises . Sublandlord may from time to time request Subtenant to provide adequate information for Sublandlord to determine that any Hazardous Material permitted hereunder is being handled in compliance with all applicable federal, state or local Laws or policies relating to Hazardous Material (including, without limitation, its use, handling, transportation, production, disposal, discharge or storage) or to human health and safety, industrial hygiene or environmental conditions in, on, under or about the Premises and any other property, including, without limitation, soil, air and groundwater conditions ("Environmental Laws"), and Subtenant shall promptly provide all such information. Sublandlord and Sublandlord's Agents shall have the right to inspect the Premises for Hazardous Material and compliance with the provisions hereof at all reasonable times upon reasonable advance oral or written notice to Subtenant (except in the event of an emergency). Without limiting the foregoing, Subtenant acknowledges and agrees that it shall be bound by and will comply with the environmental protection provisions provided for in Section 13 of the Master Lease.

19.2. Subtenant's Environmental Indemnity. If Subtenant breaches any of its obligations contained in Section 19.1 above, or, if any act or omission or negligence of Subtenant or any of Subtenant's Agents or Subtenant's Invitees results in any spilling, leaking, pumping, pouring, emitting, discharging, injecting, escaping, leeching or dumping ("Release") of Hazardous Material in, on, under or about the Premises or the Property, without limiting Subtenant's general Indemnity contained in Section 15.2 above, Subtenant, on behalf of itself and Subtenant's

Agents, shall Indemnify the Indemnified Parties, and each of them, from and against all any and all enforcement, investigation, remediation or other governmental or regulatory actions, agreements or orders threatened, instituted or completed pursuant to any Environmental Laws together with any and all Losses made or threatened by any third party against Sublandlord, Sublandlord's Agents, or the Premises, relating to damage, contribution, cost recovery compensation, loss or injury resulting from the presence, Release or discharge of any Hazardous Materials, including, without limitation, Losses based in common law, investigation and remediation costs, fines, natural resource damages, damages for decrease in value of the Premises, the loss or restriction of the use or any amenity of the Premises and attorneys' fees and consultants' fees and experts' fees and costs ("Hazardous Materials Claims") arising during or after the Term of this Sublease and relating to such Release. The foregoing Indemnity includes, without limitation, all costs associated with the investigation and remediation of Hazardous Material and with the restoration of the Premises or the Property to its prior condition including, without limitation, fines and penalties imposed by regulatory agencies, natural resource damages and losses, and revegetation of the Premises or other Sublandlord property. Without limiting the foregoing, if Subtenant or any of Subtenant's Agents or Subtenant's Invitees, causes or permits the Release of any Hazardous Materials in, on, under or about the Premises or the Property, Subtenant shall, immediately, at no expense to Sublandlord, take any and all appropriate actions to return the Premises or other Sublandlord property affected thereby to the condition existing prior to such Release and otherwise investigate and remediate the Release in accordance with all Environmental Laws. Subtenant shall provide Sublandlord with written notice of and afford Sublandlord a full opportunity to participate in any discussions with governmental regulatory agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree, permit, approvals, or other compromise or proceeding involving Hazardous Material.

19.3. **Acknowledgment of Receipt of EBS and FOSL Reports.** Subtenant hereby acknowledges for itself and Subtenant's Agents that, prior to the execution of this Sublease, it has received and reviewed the Environmental Baseline Survey ("EBS") and the Finding of Suitability to Lease ("FOSL") described in Section 7 of the Master Lease.

20. GENERAL PROVISIONS

20.1. Notices. Except as otherwise expressly provided in this Sublease, any notice given hereunder shall be effective only in writing and given by delivering the notice in person, or by sending it first class mail or certified mail with a return receipt requested or reliable commercial overnight courier, return receipt requested, with postage prepaid as follows:

Notice Address of Sublandlord	Treasure Island Development Authority Treasure Island Project Office 401 Palm Avenue Building 1, Room 237 Treasure Island

	Attn: Executive Director Fax No.: 415-274-0662
with a copy to:	Office of the City Attorney City Hall, Second Floor 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102 Attn: Michael S. Cohen Fax No.: (415) 554-4755
Notice Address of Subtenant:	Susie S. Pak Company 925 Scenic Place Pleasant Hill, CA 94523 Attn: _____ Fax No.: _____
Notice Address of Master Landlord:	Commanding Officer (Code 24) Engineering Field Activity West Naval Facilities Engineering Command 900 Commodore Drive San Bruno, California 94066

Any Party hereunder may designate a new address for notice purposes hereunder at least ten (10) days prior to the effective date of such change. Any notice hereunder shall be deemed to have been given two (2) days after the date when it is mailed if sent by first class or certified mail, one day after the date it is made, if sent by commercial overnight carrier, or upon the date personal delivery is made, and any refusal by either Party to accept the attempted delivery of any notice, if such attempted delivery is in compliance with this Section 20.1 and applicable Laws, shall be deemed receipt of such notice..

20.2. **No Implied Waiver**. No failure by Sublandlord to insist upon the strict performance of any obligation of Subtenant under this Sublease or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues, no acceptance of full or partial payment for any sums due hereunder during the continuance of any such breach, and no acceptance of the keys to or possession of the Premises prior to the expiration of the Term by any Agent of Sublandlord, shall constitute a waiver of such breach or of Sublandlord's right to demand strict compliance with such term, covenant or condition or operate as a surrender of this Sublease. No express written waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision

hereof shall not be deemed to be a waiver of a subsequent default or performance. The consent of Sublandlord given in any instance under the terms of this Sublease shall not relieve Subtenant of any obligation to secure the consent of Sublandlord in any other or future instance under the terms of this Sublease.

20.3. **Amendments**. Neither this Sublease nor any term or provisions hereof may be changed, waived, discharged or terminated, except by a written instrument signed by the Parties hereto.

20.4. **Authority**. If Subtenant signs as a corporation, a partnership or a limited liability company, each of the persons executing this Sublease on behalf of Subtenant does hereby covenant and warrant that Subtenant is a duly authorized and existing entity, that Subtenant has and is qualified to do business in California, that Subtenant has full right and authority to enter into this Sublease, and that each and all of the persons signing on behalf of Subtenant are authorized to do so. Upon Sublandlord's request, Subtenant shall provide Sublandlord with evidence reasonably satisfactory to Sublandlord confirming the foregoing representations and warranties. Without limiting the generality of the foregoing, Subtenant represents and warrants that it has full power to make the waivers and releases , indemnities and the disclosure set forth herein, and that it has received independent legal advice from its attorney as to the advisability of entering into a sublease containing those provisions and their legal effect.

20.5. **Joint and Several Obligations**. The word "Subtenant" as used herein shall include the plural as well as the singular. If there is more than one Subtenant, the obligations and liabilities under this Sublease imposed on Subtenant shall be joint and several.

20.6. **Interpretation of Sublease**. The captions preceding the articles and sections of this Sublease and in the table of contents have been inserted for convenience of reference only and such captions shall in no way define or limit the scope or intent of any provision of this Sublease. This Sublease has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein and shall be interpreted to achieve the intents and purposes of the Parties, without any presumption against the party responsible for drafting any part of this Sublease. Provisions in this Sublease relating to number of days shall be calendar days, unless otherwise specified, provided that if the last day of any period to give notice, reply to a notice or to undertake any other action occurs on a Saturday, Sunday or a bank or Sublandlord holiday, then the last day for undertaking the action or giving or replying to the notice shall be the next succeeding business day. Use of the word "including" or similar words shall not be construed to limit any general term, statement or other matter in this Sublease, whether or not language of non-limitation, such as "without limitation" or similar words, are used. Unless otherwise provided herein, whenever the consent of Sublandlord is required to be obtained by Subtenant hereunder, Sublandlord may give or withhold such consent in its sole and absolute discretion.

20.7. **Successors and Assigns**. Subject to the provisions of Section 13, the terms, covenants

and conditions contained in this Sublease shall bind and inure to the benefit of Sublandlord and Subtenant and, except as otherwise provided herein, their personal representatives and successors and assigns; provided, however, that upon any transfer by Sublandlord (or by any subsequent Sublandlord) of its interest in the Premises as lessee, including any transfer by operation of Law, Sublandlord (or any subsequent Sublandlord) shall be relieved from all subsequent obligations and liabilities arising under this Sublease subsequent to such transfer.

20.8. Brokers. Neither party has had any contact or dealings regarding the leasing of the Premises, or any communication in connection therewith, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the Sublease contemplated herein. In the event that any broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes a claim shall be responsible for such commission or fee and shall Indemnify the other party from any and all Losses incurred by the indemnified party in defending against the same. The provisions of this Section shall survive any termination of this Sublease.

20.9. Severability. If any provision of this Sublease or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Sublease, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Sublease shall be valid and be enforceable to the fullest extent permitted by Law.

20.10. Governing Law. This Sublease shall be construed and enforced in accordance with the Laws of the State of California and the federal government.

20.11. Entire Agreement. This instrument (including the exhibits hereto, which are made a part of this Sublease) contains the entire agreement between the Parties and supersedes al prior written or oral negotiations, discussions, understandings and agreements. The Parties further intend that this Sublease shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts of this Sublease and any changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Sublease. Subtenant hereby acknowledges that neither Sublandlord nor Sublandlord's Agents have made any representations or warranties with respect to the Premises or this Sublease except as expressly set forth herein, and no rights, easements or licenses are or shall be acquired by Subtenant by implication or otherwise unless expressly set forth herein. Notwithstanding the foregoing, the Parties shall make a good faith effort to negotiate mutually acceptable changes to this Sublease, if any, within ninety (90) days of the date hereof, provided however, that such changes, if any, shall be subject to the approval of the Master Landlord.

20.12. Attorneys' Fees. In the event that either Sublandlord or Subtenant fails to perform any

of its obligations under this Sublease or in the event a dispute arises concerning the meaning or interpretation of any provision of this Sublease, the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights hereunder (whether or not such action is prosecuted to judgment), including, without limitation, court costs and reasonable attorneys' fees.

20.13. **Time of Essence**. Time is of the essence with respect to all provisions of this Sublease in which a definite time for performance is specified.

20.14. **Cumulative Remedies**. All rights and remedies of either party hereto set forth in this Sublease shall be cumulative, except as may otherwise be provided herein.

20.15. **Survival of Indemnities**. Termination of this Sublease shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Sublease, nor shall it affect any provision of this Sublease that expressly states it shall survive termination hereof. Subtenant specifically acknowledges and agrees that, with respect to each of the indemnities contained in this Sublease, Subtenant has an immediate and independent obligation to defend Sublandlord and the other Indemnified Parties from any claim which actually or potentially falls within the indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to Subtenant by Sublandlord and continues at all times thereafter.

20.16. **Relationship of Parties**. Sublandlord is not, and none of the provisions in this Sublease shall be deemed to render Sublandlord, a partner in Subtenant's business, or joint venturer or member in any joint enterprise with Subtenant. This Sublease is not intended nor shall it be construed to create any third party beneficiary rights in any third party, unless otherwise expressly provided. The granting of this Sublease by Sublandlord does not constitute authorization or approval by Sublandlord of any activity conducted by Subtenant on, in or relating to the Premises.

20.17. **Recording**. Subtenant agrees that it shall not record this Sublease nor any memorandum or short form hereof in the official records of any county.

20.18. **Non-Liability of Indemnified Parties' Officials, Employees and Agents**. No elective or appointive board, commission, member, officer or employee of any of the Indemnified Parties shall be personally liable to Subtenant, its successors and assigns, in the event of any default or breach by Sublandlord or for any amount which may become due to Subtenant, its successors and assigns, or for any obligation of Sublandlord under this Agreement.

20.19. **No Discrimination**. Subtenant shall comply with the non-discrimination provisions of Section 19.1 of the Master Lease, including, without limitation, posting all notices required therein.

20.20. Counterparts. This Sublease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

20.21. Master Landlord's Consent. This Sublease is expressly conditioned upon receipt of the written consent of Master Landlord

21. SPECIAL PROVISIONS

21.1. Signs. Subtenant agrees that it will not erect or maintain, or permit to be erected or maintained, any signs, notices or graphics upon or about the Premises which are visible in or from public corridors or other portions of any common areas of the Premises or from the exterior of the Premises, without Sublandlord's prior written consent, which Sublandlord may withhold or grant in its sole discretion.

21.2. Public Transit Information. Subtenant shall establish and carry on during the Term a program to encourage maximum use of public transportation by personnel of Subtenant employed on the Premises, including, without limitation, the distribution to such employees of written materials explaining the convenience and availability of public transportation facilities adjacent or proximate to the Premises and encouraging use of such facilities, all at Subtenant's sole expense.

21.3. Non-Discrimination.

(a) Covenant Not to Discriminate. In the performance of this Sublease, Subtenant covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with, Subtenant in any of Subtenant's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Subtenant.

(b) Subleases and Other Subcontracts. Subtenant shall include in all Subleases and other subcontracts relating to the Premises a non-discrimination clause applicable to such Subtenant or other subcontractor in substantially the form of subsection (a) above. In addition, Subtenant shall incorporate by reference in all subleases and other subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all Subtenants and other subcontractors to comply with such provisions. Subtenant's failure to comply with the obligations in this subsection shall constitute a material breach of this

Sublease.

(c) Non-Discrimination in Benefits. Subtenant does not as of the date of this Sublease and will not during the Term, in any of its operations in San Francisco or where the work is being performed for the City or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(d) HRC Form. Subtenant shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission (the "HRC").

(e) Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of City property are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Subtenant shall comply fully with and be bound by all of the provisions that apply to this Sublease under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Subtenant understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of $50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Sublease may be assessed against Subtenant and/or deducted from any payments due Subtenant.

21.4. No Relocation Assistance; Waiver of Claims. Subtenant acknowledges that it will not be a displaced person at the time this Sublease is terminated or expires by its own terms, and Subtenant fully RELEASES, WAIVES AND DISCHARGES forever any and all Claims against, and covenants not to sue, Sublandlord, its departments, commissions, officers, directors and employees, and all persons acting by, through or under each of them, under any laws, including, without limitation, any and all claims for relocation benefits or assistance from Sublandlord under federal and state relocation assistance laws (including, but not limited to, California Government Code Section 7260 et seq.), except as otherwise specifically provided in this Sublease with respect to a Taking.

21.5. MacBride Principles - Northern Ireland. The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages then to abide by the MacBride Principles as expressed in San Francisco

Administrative Code Section 12F.1, et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Subtenant acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

21.6. **Tropical Hardwood Ban**. The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood or tropical hardwood product.

21.7. **Conflicts of Interest**. Subtenant states that it is familiar with the provisions of Section 8.105 and 8.106 of the San Francisco Charter and certifies that it knows of no facts which would constitute a violation of such provisions. Subtenant further certifies that it has made a complete disclosure to the Sublandlord of all facts bearing on any possible interests, direct or indirect, which Subtenant believes any officer or employee of the Sublandlord presently has or will have in this Sublease or in the performance thereof or in any portion of the profits thereof. Willful failure by Subtenant to make such disclosure, if any, shall constitute grounds for the Sublandlord's termination and cancellation of this Sublease.

21.8. **Burma (Myanmar) Business Prohibition**. Subtenant is not the government of Burma (Myanmar), a person or business entity organized under the laws of Burma (Myanmar) or a "prohibited person or entity" as defined in Section 12J.2(G) of the San Francisco Administrative Code. Sublandlord reserves the right to terminate this Sublease for default if Subtenant violates the terms of this clause. Chapter 12J of the San Francisco Administrative Code is hereby incorporated by reference as though fully set forth herein. The failure of Subtenant to comply with any of its requirements shall be deemed a material breach of this Sublease. In the event Subtenant fails to comply in good faith with any of the provisions of Chapter 12J of the San Francisco Administrative Code, Subtenant shall be liable for liquidated damages for each violation in an amount equal to Subtenant's net profit under this Sublease, or 10% of the total amount of the Sublease, or $1,000, whichever is greatest. Subtenant acknowledges and agrees the liquidated damages assessed shall be payable to the Sublandlord upon demand and may be setoff against any moneys due to the Subtenant from this Sublease.

21.9. **Prevailing Wages for Construction Work**. Subtenant agrees that to the extent any person performing labor in the construction of the Alterations required under Section 7 [Alterations] is paid wages for such labor, such person shall be paid not less than the highest prevailing rate of wages and that Subtenant shall include, in any contract for construction of such improvements, a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. Subtenant further agrees that, as to the construction of such improvements under this Sublease, Subtenant shall comply with all the provisions of subsection (b) of San Francisco Charter Section A7.204 and Sections 6.33 through 6.45 of the San Francisco Administrative Code that relate to payment of prevailing wages. Subtenant shall require any contractor to provide, and shall deliver to

Sublandlord every two weeks during any construction period, certified payroll reports with respect to all persons performing labor in the construction of any of the required alterations.

21.10. Prohibition of Tobacco Advertising. Subtenant acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on any real property owned by or under the control of the Authority or the City, including the Premises and the Property. This prohibition includes the placement of the name of a company producing selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This prohibition does not apply to any advertisement sponsored by a state, local or nonprofit entity designed to communication the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.

21.11. Employment. Pursuant to the Workforce Hiring Agreement attached hereto as Exhibit G, the Subtenant will use best faith efforts to maintain an employment rate that includes 10% of individuals referred by the Treasure island Homeless Development Initiative's Job Broker Program.

Sublandlord and Subtenant have executed this Sublease in triplicate as of the date first written above.

SUBTENANT:

The Susie S. Pak Company
a California corporation

By:_____
Susie S. Pak
Its: _____

SUBLANDLORD:
Treasure Island Development Authority

By: _____
Its: _____

Approved as to Form:

_____
Deputy City Attorney

EXHIBIT A

MASTER LEASE

EXHIBIT B

DIAGRAM OF THE PREMISES

EXHIBIT C

COVER PAGE OF THE SEISMIC REPORT

EXHIBIT D

RULES AND REGULATIONS

EXHIBIT E

REQUIRED IMPROVEMENTS

EXHIBIT F

STANDARD UTILITIES AND SERVICES AND RATES

EXHIBIT G

WORKFORCE HIRING AGREEMENT

OFFICE OF THE MAYOR
SAN FRANCISCO

TREASURE ISLAND PROJECT
410 AVENUE OF PALMS, BLDG #1
TREASURE ISLAND
SAN FRANCISCO, CA 94130
(415) 274-0660
FAX (415) 274-0299

WILLIE LEWIS BROWN, JR.

TO: TIDA Members
Government Information Center, S.F. Public Library

FROM: Joan Rummelsburg

DATE: 12/10/99

RE: Agenda Item #11

Enclosed is Agenda Item 11 for the Treasure Island Development Authority meeting of December 15, 1999. Please add it to the packet you received on December 3, 1999. Thank you.

TREASURE ISLAND DEVELOPMENT AUTHORITY
City and County of San Francisco

Agenda Item No. 11 **Meeting of December 15, 1999**

Subject: Funding an extension of the contract with Geomatrix to continue to provide oversight of the U.S. Navy's environmental clean up program on Treasure Island

Contact/Phone: Robert Mahoney, Deputy Executive Director
274-0660

SUMMARY OF PROPOSED ACTION

Authorize the release of funds to the Department of Public Works for an amount not to exceed $200,000 to fund an extension of the contract with Geomatrix to continue to provide oversight of the U.S. Navy's environmental clean up program on Treasure Island

DISCUSSION

The City and County of San Francisco (City) established the Treasure Island Development Authority (Authority) to manage the conversion of former Naval Station Treasure Island from Navy use to civilian use. As part of its transfer responsibilities, the Navy is undertaking an environmental remediation program to meet federal requirements that an environmentally clean base is transferred. One of the Authority's chief responsibilities is to assure that the Navy's environmental remediation activities achieve the agreed clean-up level for planned civilian use. The Authority, through the City's Department of Public Works, has retained a consultant, Geomatrix, to secure an independent analysis of the thoroughness and defensibility of the environmental work conducted by the Navy, and to assure the compatibility of the Navy's proposed remediation activities with the Authority's redevelopment plans. The contract extension will continue these oversight activities through June 2000.

Geomatrix was selected by the Department of Public Works as an "as needed" consultant for environmental review and remediation activities through a public Request for Proposals process. The contract extension needed by the Authority has been approved by the San Francisco Civil Service Commission.

Pending establishment of a contract to provide environmental monitoring services, the FY 2000 budget estimate of $500,000 for such work was placed on reserve by the Board of Supervisors. If authorized by the Authority, staff will request release of these funds from the Board. Please note that the original estimate (made in January 1999) has been reduced as work on the environmental remediation program has proceeded.

BACKGROUND

For the environmental remediation program, Treasure Island and Yerba Buena Island were divided into 144 parcels (118 on TI and 26 on YBI) which were then classified by environmental condition to enable the Navy and the Authority to identify properties that are suitable for lease or transfer on an on-going basis. A Restoration Advisory Board (RAB) was established to provide public review, input and comment on all aspects of the environmental remediation program.

Concurrent with the parcel classification program, the Navy initiated an Installation Restoration (IR) Program to identify and investigate potential hazardous waste sites. Twenty-five IR sites originally were selected for investigation and remediation, if needed, under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). These 25 IR sites were grouped into Onshore and Offshore Operating Units (OUs). Site 12 was broken out from the Onshore OU and established as a separate OU because completion of the entire Onshore OU would not accommodate the Authority's reuse schedule for Site 12. An additional group of IR sites that comprise the planned SWA may be broken out from the Onshore OU as a separate OU also to accommodate the Authority's redevelopment schedule. Nine IR sites were classified as petroleum-only sites, and were removed from the CERCLA process. Investigation and remediation of these nine IR sites is being performed under California Underground Storage Tank regulations with the State of California Department of Toxic Substances Control (DTSC) as the lead regulatory agency for the project. In addition, the California Regional Water Quality Control Board – San Francisco Region (RWQCB) and U.S. Environmental Protection Agency (EPA) have been actively participating in the process.

All of the OUs described above are being investigated concurrently. Between November 1999 and June 2000, the oversight work will be focused on three areas: 60% on Site 12, 25% on SWA, and 15% on the petroleum and fuel pipeline sites, and Onshore and Offshore OUs. Site 12 consists primarily of residential housing and the Authority has begun to lease the housing units as scheduled. However, DTSC has identified parts of Site 12 formerly cleared for leasing as requiring further evaluation. Since the Authority's leasing schedule calls for all housing areas to be leased within the next several months, implementation of the additional investigation has been expedited. Investigation of the SWA is focused on assuring that the Authority's schedule, which calls for groundbreaking next summer, can be met. The balance of the work is focused on the petroleum and fuel pipeline sites, and the remainder of the Onshore and Offshore OUs.

SCOPE OF WORK

The primary scope of work includes:

- attending technical and strategy meetings,
- assisting the Authority with risk communication,
- reviewing work plans and reports, and
- providing occasional field oversight or collecting samples.

Monthly technical meetings are held to review the status of on-going tasks and identify outstanding issues. The Navy and its consultants, the Authority and its consultants, regulators, and RAB members participate in these meetings. Additional meetings are scheduled to address significant issues identified at the monthly meeting. These technical working meetings clarify details of a specific field program or technical evaluation approach. Other supplemental meetings

may be associated with assisting the Authority with risk communication, including technical presentations to Authority management, regulators, and tenants. In addition, the Navy prepares work plans and reports to document its approach, confirm agreements between interested parties, and comply with regulatory requirements, which also are reviewed by the Authority's consultant. Finally, the Authority occasionally may request that its consultant oversee the Navy's field work or collect field samples to verify the adequacy of the Navy's work, or to fill a data gap critical to the Authority's needs that is not addressed by the Navy.

The process for completing environmental investigations at NSTI is fairly well defined; however, regulators commonly identify the need for previously unplanned activities (additional investigations, reports and meetings) as new field data are collected and analyzed. Additional work plans and reports are then prepared that, in turn, require additional review and additional meetings to address technical issues. The level of effort required to respond to such activities is difficult to estimate, but represented approximately 30% of the consultant's total work during the previous six-month period.

RECOMMENDATION

Staff recommends approval

RESOLUTION AUTHORIZING THE RELEASE OF FUNDS TO THE DEPARTMENT OF PUBLIC WORKS FOR AN AMOUNT NOT TO EXCEED $200,000 TO FUND AN EXTENSION OF THE CONTRACT WITH GEOMATRIX TO CONTINUE TO PROVIDE TECHNICAL OVERSIGHT OF THE UNITED STATES NAVY'S ENVIRONMENTAL CLEANUP PROGRAM ON FORMER NAVAL STATION TREASURE ISLAND

WHEREAS, former Naval Station Treasure Island is a military base located on Treasure Island and Yerba Buena Island (together, the "Base"), which is currently owned by the United States of America ("the Federal Government"); and,

WHEREAS, Treasure Island was selected for closure and disposition by the Base Realignment and Closure Commission in 1993, acting under Public Law 101-510, and its subsequent amendments; and,

WHEREAS, On May 2, 1997, the Board of Supervisors passed Resolution No. 380-97, authorizing the Mayor's Treasure Island Project Office to establish a nonprofit public benefit corporation known as the Treasure Island Development Authority (the "Authority") to act as a single entity focused on the planning, redevelopment, reconstruction, rehabilitation, reuse and conversion of the Base for the public interest, convenience, welfare and common benefit of the inhabitants of the City and County of San Francisco; and,

WHEREAS, Under the Treasure Island Conversion Act of 1997, which amended Section 33492.5 of the California Health and Safety Code and added Section 2.1 to Chapter 1333 of the Statutes of 1968 (the "Act"), the California Legislature (I) designated the Authority as a redevelopment agency under California redevelopment law with authority over the Base upon approval of the City's Board of Supervisors, and (ii) with respect to those portions of the Base which are subject to Tidelands Trust, vested in the Authority the Authority to administer the public trust for commerce, navigation and fisheries as to such property; and

WHEREAS, The Board of Supervisors approved the designation of the Authority as a redevelopment agency for Treasure Island in 1997; and,

WHEREAS, under the Act and the Authority's Articles of Incorporation and Bylaws, the Authority, acting by and through its Board of Directors, has the power, subject to applicable laws, to sell, lease, exchange, transfer, convey or otherwise grant an interest in or right to use or occupy all or any portion of the real property located on the Base; and,

WHEREAS, Geomatrix Consultants Incorporated was selected to provide assistance in reviewing, commenting and overseeing the Navy's environmental remediation program on former naval station Treasure Island following a public Request for Proposals process; and

WHEREAS, the Authority needs to continue to oversee the Navy's environmental remediation program;

Now, therefore be it RESOLVED, That the Authority hereby authorizes the release of already budgeted funds to the Department of Public Works to fund the continuation of technical

oversight of the United States Navy's environmental cleanup program on former naval base Treasure Island pursuant to the terms and conditions of the contract attached hereto as Exhibit A.

CERTIFICATE OF SECRETARY

I hereby certify that I am the duly elected and acting Secretary of the Treasure Island Development Authority, a California nonprofit public benefit corporation, and that the above Resolution was duly adopted and approved by the Board of Directors of the Authority at a properly noticed meeting on December 8, 1999.

_____

John Elberling, Secretary

WORK PLAN

ENVIRONMENTAL AND CIVIL ENGINEERING CONSULTATION SERVICES

NAVAL STATION TREASURE ISLAND
SAN FRANCISCO, CALIFORNIA

This Work Plan outlines the specific activities Geomatrix will perform to provide a third party evaluation on the Navy's environmental remediation program for former naval station Treasure Island as requested by the Treasure Island Development Authority (Authority). The Authority seeks to:

- Secure an independent analysis of the thoroughness and defensibility of the Navy's environmental remediation work
- Assure the compatibility of the Navy's remedial activities with the Authority's redevelopment plans.

SCOPE OF WORK

The primary scope of work includes seven tasks:

Task 1: Attend and participate in regularly scheduled technical meetings
Task 2: Attend and participate in supplemental technical meetings
Task 3: Review and provide written comments on technical documents
Task 4: Review interim data from field programs to assess data quality, and create presentations (such as tables or maps) to summarize the field data, and/or compare the field data to appropriate screening criteria.
Task 5: Oversee the Navy's sample collection or undertake independent sample collection
Task 6: Track Navy's activities base-wide and report weekly to the Authority
Task 8: Contingency

Task 1: Regularly Scheduled Technical Meetings -- Estimated Cost: $15,000
This task entails attending regularly scheduled BRAC Closure Team (BCT) or Restoration Advisory Board (RAB) meetings, including preparation time and reviewing and commenting on meeting minutes. For purposes of this cost estimate, it is assumed that the consultant will attend 8 BCT meetings and 2 RAB meetings (average cost of $1,500 per meeting).

Task 2: Supplemental Technical Working Meetings -- Estimated Cost: $40,000
This task entails attending supplemental technical working meetings that are scheduled to follow-up on outstanding issues identified in the monthly BCT or RAB meetings. These meetings also may be related to assisting the City with risk communication. This task involve preparation time and reviewing and commenting on meeting minutes; however, the preparation time for these meetings is expected to be longer than for the regularly scheduled meetings. Based on the number of supplemental technical meetings scheduled during the previous 6-month

period, it is assumed that the consultant will attend 3 meetings per month or a total of 24 of these meetings (average cost of $1,675 per meeting).

Task 3: Document Review -- Estimated Cost: $45,000
This task entails reviewing work plans, reports, and other documents prepared by the Navy or other parties (e.g., regulatory review comments), preparation of a draft letter summarizing the comments for the Authority's review and preparation of a final letter incorporating the Authority's comments. The following 18 documents are scheduled to be issued and reviewed between November 1999 and June 2000 based on the schedule of reports provided by the Navy at the November 1, 1999 BCT meeting or as modified in subsequent meetings.

- Draft Pilot Test Technical Memorandum (TM) for Corrective Action Plan (CAP) Sites
- Final Pilot Test TM for CAP Sites
- Draft Final Field Sampling and Analysis Plan (FSAP) for CAP Sites
- Final FSAP for CAP Sites
- Draft Focused Investigation TM for CAP Sites
- Final Focused Investigation TM for CAP Sites
- Final Fuel Line Remedial Investigation/Corrective Action Plan (RI/CAP) Work Plan
- Draft Fuel Line RI/CAP Report
- Draft Final Phase 2a Site Supplemental Environmental Baseline Survey (SEBS)
- Draft Letter Report for Building 1207/1209 Lead Removal Action
- Final Letter Report for Building 1207/1209 Lead Removal Action
- Draft Field Sampling Plan (FSP) for Elementary School Area
- Final FSP for Elementary School Area
- Draft FSP for Buildings 1205/1207, 1244, 1251/1253, and Debris Disposal Areas (DDAs) C and D
- Final FSP for Buildings 1205/1207, 1244, 1251/1253, and Debris Disposal Areas (DDAs) C and D
- Draft FSP for DDAs A and B
- Final FSP for DDAs A and B
- Final Removal Site Evaluation/Action Memorandum (RSE/AM) for Building 1133 Removal Action

The cost to review and comment on work plans, reports, or other documents is expected to range from approximately $1,000 to $10,000 per document depending on the amount and complexity of the information presented. For purposes of this cost estimate, it is assumed that the cost to review each document will average $2,500.

Task 4: Interim Data Review -- Estimated Cost: $12,500
This task entails reviewing interim data during and immediately following field programs to assess the need for additional investigation or expedited remedial action prior to completion of an investigation report. This review may include an assessment of data quality, creation of tables or maps summarizing the data, and/or comparison of the data to appropriate screening criteria. The results of this review may be presented to the Authority verbally or in writing depending on the nature of the investigation. For purposes of this cost estimate, it is assumed that the consultant will review data from five field programs (i.e., Former Storage Yard; Mariner Drive; Elementary School; Buildings 1205/1207, 1244, and 1251/1253 and Debris Disposal Areas C and D; Disposal Areas A and B) at an average cost of $2,500 per area.

Task 5: Field Oversight and Sample -- Estimated Cost: $10,000
This task entails field oversight or sample collection to assure the quality of the Navy's work or to fill data gaps critical to the Authority's needs that are not addressed by the Navy or required by the regulators. Field oversight may be associated with site investigation or removal actions. In either case, the consultant will observe field activities to ensure compliance with approved work plans (e.g., general quality assurance/quality control, sample number, location, and analysis, including confirmation samples if applicable). Sample collection may be conducted in conjunction with a Navy field effort (split samples) or independently from the Navy's environmental program. For purposes of this cost estimate, it is assumed that the consultant will oversee one of the Navy's field efforts and conduct one sampling program.

Task 6: Project Tracking -- Estimated Cost: $12,000
This task entails tracking the Navy's progress on a base-wide basis to ensure that the City's needs are met. The consultant will prepare a Project Status Summary on a monthly basis that identifies key issues, action items associated with those issues, the party responsible for completing the action item, and the date by which the action item will be addressed. The Project Status Summary will also include a subset of upcoming reports. Other activities under this task may include creation and maintenance of a schedule to facilitate closely tracking the Navy's activities (e.g., investigation/removal activities in Site 12). Finally, this task will entail weekly progress reports to the City documenting the activities completed and estimated costs for the reporting period and costs incurred to date. Project tracking costs are estimated to be $1,500 per month.

Task 7: Contingency -- Estimated Cost: $40,500
Although the process for completing environmental investigations at NSTI is fairly well defined, unforeseen activities inevitably arise as new field data are collected. These activities may include additional investigations, which result in additional work plans and reports that require review, and additional meetings to address technical issues. The level of effort required to addresses these types of unforeseen activities is difficult to estimate, but represented approximately 30 percent of the total level of effort expended during the previous 6-month period. Therefore, a contingency budget of 30 percent of the total estimated cost for Tasks 1 through 6 is assumed for purposes of this cost estimate.

The total estimated cost to complete the above-described Scope of Work is $175,000.

TABLE 1

BUDGET ESTIMATE SUMMARY FOR
ENVIRONMENTAL AND CIVIL ENGINEERING CONSULTATION SERVICES

NAVAL STATION TREASURE ISLAND
SAN FRANCISCO, CALIFORNIA

Task	Estimated Cost
Task 1: Regulatory Scheduled Technical Meetings	$ 15,000
Task 2: Supplemental Technical Meetings	$ 40,000
Task 3: Document Review	$ 45,000
Task 4: Interim Data Review	$ 12,500
Task 5: Field Oversight and Sample Collection	$ 10,000
Task 6: Project Tracking	$ 12,000
Task 7: Contingency	$ 40,500
TOTAL:	**$175,000**

INVOICING

Geomatrix will submit monthly bills to the attention of Steve Mullinix at the Department of Public Works, Bureau of Construction Management, SAR, 1680 Mission Street, San Francisco CA. These invoices will be itemized by task, and within each task total costs per staff level will be identified. Expenses also will be identified and supported by copies of original invoices. Meetings will be identified by subject, date and attendees.

(OFFMA-81 REV. 04/20/95)

REQUEST FOR CONTRACT ACTION

DATE: September 10, 1999.

TO: ☐ Accounting, 875 Stevenson Street, 4th Floor:

For: ☐ GEN ☐ BOA ☐ BOE ☐ BCM ☐ BBI ☐ SSM

☐ Accounting, 2323 Army Street:

For: ☐ BBR ☐ BSM ☐ WPC ☐ ERM ☐ SSR

REQUESTED ACTION:

- ☐ ADVERTISE A RFP/RFQ
- ☐ AWARD A PROFESSIONAL SERVICE CONTRACT
- ☐ CALL FOR FORMAL BID FOR CONSTRUCTION CONTRACT
- ☐ AWARD A FORMAL CONSTRUCTION CONTRACT
- ☐ AWARD AN INFORMAL CONSTRUCTION CONTRACT BASED ON QUOTE ACCEPTED BY CONTRACT MANAGER
- ☐ DECLARE AN EMERGENCY (IF NOT PREVIOUSLY DECLARED)
- ☐ AWARD AN EMERGENCY CONTRACT PER ATTACHED EMERGENCY DECLARED BY ANOTHER DEPARTMENT
- ■ MODIFY A PROFESSIONAL SERVICE CONTRACT

FROM: Contract Manager: Steve Mullinnix

BUR/DIV: Construction Management/SAR Phone: 554-8374

CONTRACTOR:	Address;	PHONE:
Geomatrix Consultants, Inc.	2101 Webster Street, 12th Floor Oakland, CA 94612	(510) 663-4100
JOB No.: TIC	TITLE: Environmental and Civil Engineering Consultation Services for Treasure Island	
TOTAL AMOUNT/ESTIMATE: $ 100,000.00	MODIFICATION AMOUNT REQUESTED: $375,000.00 TOTAL CONTRACT AMOUNT AS MODIFIED: 475,000.00	ESTIMATED COMPLETION DATE: 09/30/00
FUNDING SOURCE AND GRANT IF APPLICABLE: Treasure Island Development Authority Work Order		TIME EXTENSION:

SCOPE OF WORK: (INCLUDING JUSTIFICATION FOR EMERGENCY)
To provide consultation services to perform civil and environmental engineering to include risk assessments, special studies and support for TIDA staff – Modification requested by Mayor's staff due to accelerated development plans and need for rapid assessment and reporting

SPECIAL CONDITIONS/INSURANCE/EXCEPTIONS/REMARKS: DPW ORDER No. 171,350

The purpose of this OFFMA 81 is to obtain a Modification to an existing signle fund source Agreement

FOR OFFMA USE ONLY

INDEX CODE:

FUND GROUP/FUND.

PROJECT/WORK PHASE

SUB-OBJECT:

REMARKS/ACCOUNTANT SIGNATURE AND DATE:

RECOMMENDED: S Mullinnix
DIVISION MANAGER

APPROVED
BUR/AU HEAD (N/R for awards)
(MODS >50%)
DEPUTY DIRECTOR

MODIFICATION OF AGREEMENT
For Professional Services Contract

WHEREAS, the City & County of San Francisco and Geomatrix Consultants, Inc. have entered into an agreement (Appointment # 171,350) to provide professional environmental and civil engineering consultation services for Treasure Island, and whereas, the parties now desire to modify the Agreement as described in Appendix A, now, therefore the parties agree as follows:

(please check boxes)

1. The Agreement will be modified in accordance with Attachment A.

2. The City will ADD [X] DEDUCT [ ] the sum of $375,000.00 for changes described in Attachment A.

3. The City will ADD [ ] SUBTRACT [ ] _____NA_____ calendar days TO [ ] FROM [ ] the original Agreement or the latest modification as described in Attachment A.

4. In all other respects, the original Agreement and all modifications thereto shall remain in full force and effect.

CITY	CONTRACTOR
Approved: [signature] Bureau Head	Geomatrix Consultants, Inc. 2101 Webster Street, 12th Floor Oakland, CA 94612
[signature] Harlan L. Kelly, Jr., City Engineer	By [signature] Signature
Approved Mark A. Primeau, Architect, AIA, Director of Public Works	James C. Price Name
Approved NA Edwin M. Lee, Director of Purchasing	Vice President Title
Approved Approved as to form Louise H. Renne City Attorney Deputy City Attorney	

ruwart\c:\modct.doc

City and County of San Francisco

Willie Lewis Brown, Jr.
Mayor

Human Rights Commission

Contract Compliance
Dispute Resolution/Fair Housing
Minority/Women/Local Business Enterprise
Lesbian Gay Bisexual Transgender & HIV Discrimination

Marivic S. Bamba
Executive Director

CONTRACT AMENDMENT, MODIFICATION OR SUPPLEMENTAL CHANGE ORDERS APPROVAL FORM

Submit this form when requesting contract amendment, modification, supplement or change order that cumulatively increase by more than 20% of the total dollar value of all contracts originally valued at $50,000 or more for approval.

REQUIRED ATTACHMENTS:

1) copies of contract amendments, modifications, supplements, and/or change orders leading up to the 20%; and
2) a spreadsheet with a breakdown of the list of contractors and subcontractors working on each change order with the contract dollars for each individual firm(s).
3) Upon receipt of all the required documents, the HRC shall provide the requesting officer his or her determination regarding the proposed amendments, modification, supplement or change orders within 2 business days of HRC's receipt of the request. If a response is not received then the request shall be deemed approved.

Name of Project:	Treasure Island - Environmental Consultation
Original Contract Amount:	$100,000.00
Contract Amount as Modified to Date:	$100,000.00
Amount of Current Modification Requested:	~~$450,000.00~~ ~~$383,385.00~~ 375,000.00
Brief Description of Services Required:	Additional Environmental Consultation services required by Mayor's Treasure Island Project.
Subconsultants, if any, to perform this work: (MBE/WBE utilization (% of Discipline(s) for this request). If not, please explain:	Olivia Chen - 25%

* Be subject to 8/9 Geomatrix meeting memo
May

APPROVED:

S Mulkerrin 9/8/99
Requesting Officer Date

Frank Anderson 9/9/99
Human Rights Commission Rep. Date

25 Van Ness Avenue
Suite 800

TEL (415) 252-2500
FAX (415) 431-5764
TDD (415) 252-2550

City and County of San Francisco

Department of Public Works
CONTRACT ADMINISTRATION DIVISION

NOTICE TO PROCEED

Contractor:	Geomatrix Consultants, Inc. 100 Pine Street, 10th Floor San Francisco, CA 94111
Project:	Environmental and civil engineering consultation services for Treasure Island
Term:	to September 30, 2000
Job No.:	1367K
DPW Order No.:	171,350
Contract Amount:	$100,000
Controller's Posting Number:	
Reference this # on your invoices	No.: ENCN9900005-01
Date Posted:	11/4/98

Mark A. Primeau, AIA
Director of Public Works
and City Architect

by

Division of Contract Administration
November 5, 1998

cc: Steve Mullinnix, Bureau of Construction Management

attachments: Contract Purchase Order
Appointment
Agreement

KMC:kmc

(415) 554-6229 FAX (415) 554-6232 875 Stevenson Street, Room 420 San Francisco, CA 94103

ADPICS/ MIS - FY 98-99
CITY/COUNTY OF SAN FRANCISCO
CONTRACT PURCHASE ORDER INPUT FORM

Original ✓
Modification-Increase
-Decrease
Date Change Only

DOCUMENT NUMBER: EN[illegible]

DEPARTMENT: Public Works-Bureau of Cons[illegible] Management

DEPARTMENT CONTROL NO 171,350

DATE 11/2/1998

PAGE 1 OF 1

POSTER

Complete for Contract Order type Agreements and Contracts

AMOUNT OF THIS ENCUMBRANCE $ 100,000

TOTAL APPROVED CONTRACT $ 100,000

OTHER DEPARTMENT INFORMATION OR NUMBERS: DPW No. 171,350

CIVIL SERVICE RESOLUTION NO: PSC #4006-98/99

ORIGINAL CONTRACT NUMBER

PERIOD COVERED
FROM Controller certified
TO September 30, 2000

CONTRACTOR: Geomatrix Consultants, inc.
VENDOR NO. 08211 Sfx. 01

ADDRESS
100 Pine Street, 10th Floor
San Francisco, CA 94111

FEIN/SSN No 94-2934407
Phone # (415) 743-7097

DELIVER TO
Bureau of Construction Management
1680 Mission Street
San Francisco, CA 94102

SEND INVOICES IN DUPLICATE TO
Bureau of Construction Management
1680 Mission Street
San Francisco, CA 94102
Attention: Steve Mullinnex

TERMS OF PAYMENT: Monthly

RETAINAGE REQUIRED, YES/NO IF YES, AMOUNT OR % No

COMMODITY OR SERVICE CODE #
7210-15

DETAILED DESCRIPTION OF SERVICES AND PRODUCTS

Environmental and civil engineerging consultation services for Treasure Island to include providing specialized review and comment on the Navy's proposed and ongoing remedial actions for Treasure Island.

Modification #
Original Amount: $
Prior MODS: $
Subtotal: $
This MOD: $
Total as-modified: $

Job No.: 1367K FT/F/SF: 1G/AGF/PWF

INSURANCE REQUIRED	AMOUNT	EXPIRATION DATE	ATTACH.
WORKER'S COMP	$100,000	[illegible]	
COMP. GEN LIABILITY	$1,000,000	[illegible]	
AUTOMOBILE	$1,000,000	[illegible]	
UMBRELLA			
OTHER INSURANCE- [illegible]	3,000,000	[illegible]	
OTHER INSURANCE			

ATTACHMENTS - Please identify by title or description
Business Tax #: 146221
Chpt. 12 B: Compliant

SYSTEM USE

PREPARED BY (Print) Kevin Cox
Phone # (415) 554-6225 Fax # (415) 554-6232

APPROVED BY Julie Lee
(Signature) (Print Name)

APPROVALS

DIRECTOR OF PUBLIC WORKS
BOARD OR COMMISSION

DPW Contract - Purchaser's Approval Not Required
MATERIALS, SUPPLIES, & SERVICES - PURCHASER
REAL PROPERTY LEASES & RENT - DIRECTOR OF PROPERTY

CONTROLLER

Line No.	Document Number: Number	Suffix	Amount		Index Code	Sub-Object	User Code	Project	Project Detail	Grant	Grant Detail
			$100,000	00	DPWMBFWF0296 P	02799		ICM430	NL		

ADDENDUM ATTACHED

Nos. of Pages

CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF PUBLIC WORKS
ORDER NO. 171,350

APPOINTMENT

Contractor: Geomatrix Consultants, Inc.
100 Pine Street, 10th Floor
San Francisco, CA 94111

is appointed to provide environmental and civil engineering consultation services to support planning and decision making for future development of Treasure Island.

Payment will be made upon submission of approved invoice based upon work performed satisfactorily. Total cost not to exceed **$100,000.00**. Estimated completion date is September 30, 2000.

Contractor shall indemnify and hold harmless the City & County of San Francisco, its officers and employees and furnish certificates of insurance directly protecting himself, any subcontractors and the City & County of San Francisco. The City & County of San Francisco, its officers, agents and employees shall be named as additional insureds and insurance shall be for:

Comprehensive General Liability (bodily injury and property damage)	$1,000,000 Single Limit
Business Automobile Liability (bodily injury and property damage)	$1,000,000 Single Limit
Workers' Compensation; Employers' Liability	$100,000
Professional Liability	$3,000,000 Per Claim

A Notice To Proceed and a **$100,000.00** Contract Purchase Order will be issued to the Contractor.
Funds are available:
Index Code DPWMBPWF0296, FT/F/SF LG/AGF/PWF, P/PD ICM430/NL, SUBOBJ 02799
Job No. 1367K.

RECOMMENDED:

Robert Carlson
Deputy Director for Financial
Management and Administration

Mark A. Primeau, AIA
Director of Public Works
and City Architect

DISTRIBUTION:
DPW Order Clerk
Accounting Division Manager
Contract Clerk (2 signed)
Geomatrix Consultants, Inc.
Steve Mullinnix, Bureau of Contract Management

KMC:kmc

Approved: November 4, 1998

CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF PUBLIC WORKS

AGREEMENT BETWEEN THE CITY AND COUNTY OF SAN FRANCISCO AND GEOMATRIX Consultants, Inc.

This Agreement is made this _____ day of _____, 19, in the City and County of San Francisco, State of California, by and between:

GEOMATRIX Consultants, Inc.
100 Pine Street, 10th Floor
San Francisco, CA 94111

hereinafter referred to as "Contractor," and City and County of San Francisco, a municipal corporation, hereinafter referred to as "City," acting by and through its Director of Public Works, hereinafter referred to as "Director."

Recitals

WHEREAS, the Department of Public Works wishes to obtain **Environmental and Civil Engineering Consultation** Services for **Treasure Island**; and,

WHEREAS, Contractor represents and warrants that it is qualified to perform the services required for City as set forth under this contract; and,

WHEREAS, approval for said Agreement was obtained from the Civil Service Commission by Resolution No. PSC# 4005-98/99 dated July 20 1998

Now, THEREFORE, the parties agree as follows:

1. Definitions

Where any word or phrase defined below, or a pronoun used in place thereof, is used in any part of this Agreement and Specifications, it shall have the meaning herein set forth.

AUTHORIZATION	Contract Order of the City and County of San Francisco properly executed by the Director, Director of Purchasing, and Director of Administrative Services, and certified by the Controller for the specific funding of this Agreement or any modification thereof.
DIRECTOR OF ADMINISTRATIVE SERVICES	Director of Administrative Services of the City and County of San Francisco.
CITY	City and County of San Francisco, a municipal corporation.
CONTRACTOR	GEOMATRIX Consultants, Inc.
CONTROLLER	Controller of the City and County of San Francisco.
DIRECTOR	Director of Public Works of the City and County of San Francisco.
WORK	The work to be done in providing the services as described and specified in Appendix A.

Whenever the words "as directed", "as required", "as permitted", or words of like effect are used, it shall be understood as the direction, requirement, or permission of the Department of Public Works. The words "sufficient", "necessary", or "proper", and the like, mean sufficient, necessary or proper in the judgment of the Department of Public Works. The words "approval", "acceptable", "satisfactory", or words of like import, shall mean approved by, or acceptable to, or satisfactory to the Department of Public Works, unless otherwise indicated by the context.

Form Revised (2/27/97) (6/25/97) (7/8/97) (7/18/97) (12/1/97)

2. Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation

This Agreement is subject to the budget and fiscal provisions of the Charter of City. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization.

This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year in the event funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated.

City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

3. Term of the Agreement

Subject to Section 2, the term of this Agreement shall be from the date of posting of the Agreement to September 30, 2000.

4. Effective Date of Agreement

This Agreement shall become effective when the Controller has certified to the availability of funds and Contractor has been notified in writing.

5. Services Contractor Agrees to Perform

The Contractor agrees to perform the services provided for in Appendix A, "Services to be Provided by Contractor," attached hereto and incorporated by reference as though fully set forth herein.

6. Compensation

Compensation shall be made in monthly payments on or before the last day of each month for work, as set forth in Section 5 of this Agreement, that the Director of Public Works, in his or her sole discretion, concludes has been performed as of the last day of the immediately preceding month. In no event shall the amount of this contract exceed $100,000.00 (ONE HUNDRED THOUSAND DOLLARS). The breakdown of costs associated with this contract is provided for in Appendix B, "Schedule of Values," attached hereto and incorporated by reference as though fully set forth herein.

No charges shall be incurred under this Agreement nor shall any payments become due to Contractor until reports, services, or both, required under this Agreement are received from Contractor and approved by the Department of Public Works as being in accordance with this Agreement.

In no event shall City be liable for interest or late charges for any late payments.

7. Method of Payment

Invoices furnished by Contractor under this Agreement must be in a form acceptable to Director of Purchasing and Controller. All amounts paid by City to Contractor shall be subject to audit by City.

Payment shall be made by City to Contractor at the address stated hereinabove.

8. Disallowance

In the event Contractor claims or receives payment from City for a service, reimbursement for which is later disallowed by City or State of California or United States Government, Contractor shall promptly refund the disallowed amount to City upon City's request. At its option, City may offset the amount disallowed from any payment due or to become due to Contractor under this Agreement or any other Agreement.

9. Taxes

Payment of any taxes, including California Sales and Use Taxes, levied upon this Agreement, the transaction, or the services delivered pursuant hereto, shall be the obligation of Contractor.

10. Payment Does Not Imply Acceptance of Work

The granting of any progress payment by City, or the receipt thereof by Contractor, shall in no way lessen the liability of Contractor to replace unsatisfactory work or material although the unsatisfactory character of such work or material may not have been apparent or detected at the time such payment was made. Materials, components, or workmanship which do not conform to the Specifications will be rejected and shall be replaced by Contractor without delay.

11. Qualified Personnel

Work under this Agreement shall be performed only by competent personnel under the supervision of and in the employment of Contractor. Contractor will conform with City's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at City's request, shall be supervised by Contractor.

12. Responsibility for Equipment

City shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Contractor, or by any of its employees, even though such equipment be furnished, rented or loaned to Contractor by City. The acceptance or use of such equipment by Contractor or any of its employees shall be construed to mean that Contractor accepts full responsibility for and agrees to exonerate, indemnify, defend and save harmless City from and against any and all claims for any damage or injury of any type arising from the use, misuse or failure of such equipment, whether such damage be to the contractor, its employees, City employees or third parties, or to property belonging to any of the above.

13. Independent Contractor

Contractor shall be deemed at all times to be an independent Contractor and shall be wholly responsible for the manner in which Contractor performs the service required of Contractor by the terms of this Agreement. Contractor shall be liable for the acts and omissions of it, its employees and its agents. Nothing contained herein shall be construed as creating an employment or agency relationship between City and Contractor.

Terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only and not as to the means by which such a result is obtained.

14. Insurance

a. Without in any way limiting Contractor's liability pursuant to Section 15, "Indemnification and General Liability," of this Agreement, Contractor will maintain in force, during the full term of the Agreement, insurance in the following amounts and coverage:

(1) Workers' Compensation, with Employers' Liability limits not less than $100,000 each accident.

(2) Commercial General Liability Insurance with limits not less than $1,000,000.00 each occurrence Combined Single Limit for Bodily Injury and Property Damage.

(3) Business Automobile Liability Insurance with not less than $1,000,000.00 each occurrence Combined Single Limit for Bodily Injury and Property Damage.

(4) Professional Liability insurance with limits not less than $3,000,000 each claim with respect to negligent acts, errors or omissions, and any deductible not to exceed $200,000 each claim.

(5) Contractors Pollution Liability insurance with limits not less than $3,000,000 each occurrence, combined single limit for bodily injury and property damage with any deductible not to exceed $200,000 each occurrence

b. Commercial General Liability and Business Automobile Liability Insurance policies shall be endorsed to provide the following:

(1) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

(2) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this contract, and that insurance applies separately to each insured against whom claim is made or suit is brought.

c. All policies shall be endorsed to provide:

Thirty (30) days' advance written notice to City of cancellation, non-renewal or reduction in coverage, mailed to the following address:

Contract Clerk
Department of Public Works
Division Of Contract Administration
875 Stevenson Street, Room 420
San Francisco, CA 94103

d. Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this contract and, without lapse, for a period of three years beyond the contract expiration, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the contract, such claims shall be covered by such claims-made policies.

e. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

f. Certificates of insurance, in form and with insurers satisfactory to City, evidencing all coverages above shall be furnished to City before commencing any operations under this contract, with complete copies of policies promptly upon City request.

g. Approval of the insurance by City shall not relieve or decrease the liability of Contractor hereunder.

h. This Agreement shall terminate immediately, without notice to Contractor, upon any lapse of required insurance coverage.

15. Indemnification

a. To the fullest extent permitted by law, the Contractor shall assume the defense of, indemnify and save harmless the City and its officers and employees (collectively "Indemnitees") from any claim, loss, damage, injury (including, without limitation, injury to or death of an employee of the Contractor or its subcontractors) and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, attorneys' fees and costs of investigation) that arise directly or indirectly, in whole or in part, from: (1) the services under this Agreement, or any part thereof, (2) any act or omission of Contractor, and subcontractor to the Contractor, anyone directly or indirectly employed by them, or anyone that they control (collectively "Liabilities"), even if such Liabilities are caused in part by the negligence of any Indemnitee, subject to the provisions set forth below in this Section.

b. The Contractor assumes no liability whatsoever for the sole negligence or willful misconduct of any Indemnitee or the contractors of any Indemnitee.

c. The Contractor's indemnification obligations for claims involving "Professional Liability" (claims involving acts, errors, or omissions in the rendering of professional services) and "Economic Loss Only" (claims involving economic loss which are not connected with bodily injury or physical damage to property) shall be limited to the proportionate extent of Contractor's negligence or other breach of duty.

16. Incidental and Consequential Damages

Contractor shall be responsible for incidental and consequential damages resulting in whole or in part from Contractor's negligent acts or omissions. Nothing in this Agreement shall constitute a waiver or limitation or any rights which City may have under applicable law.

17. Liability of City

City's obligations under this contract shall be limited to the payment of the compensation provided for in Section 6 of this Agreement. Notwithstanding any other provision of this Agreement, in no event shall City be liable, regardless of whether any claim is based on contract or tort, for Contractor's own special, consequential, indirect or incidental damages, including, but not limited to, lost profits, arising out of or in connection with this Agreement or the services performed in connection with this Agreement.

18. Liquidated Damages

Not Applicable

19. Bankruptcy

In the event that either party shall cease conducting business in the normal course, become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for its business or assets or shall avail itself of, or become subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any State relating to insolvency or the protection of rights of creditors, then at the option of the other party this Agreement shall terminate and be of no further force and effect, and any property or rights of such other party, tangible or intangible, shall forthwith be returned to it.

20. Termination

In the event Contractor fails to perform any of its obligations under this Agreement, this Agreement shall be terminated and all of the Contractor's rights hereunder ended. Termination shall be effective after ten (10) days' written notice to Contractor. No new work will be undertaken after the date of receipt of any notice of termination, or five days after the date of the notice, whichever is earlier. In the event of such termination, Contractor shall be paid for its services under this Agreement, up to the date of termination, that have been performed to the satisfaction of City. City may terminate this Agreement for City's convenience and without cause at any time by giving Contractor thirty (30) days' written notice of such termination. In the event of such termination, Contractor shall be paid for its services that have been performed to the satisfaction of City under this Agreement, up to the date of termination.

Upon termination of this Agreement, Contractor will submit an invoice to City for an amount which represents the value of services actually performed prior to the effective date of termination for which Contractor has not previously been compensated, except that in no event will the compensation paid for the month in which termination occurs be greater than the scheduled monthly fee multiplied by a fraction, the numerator of which will be the days in the month elapsed prior to the termination and the denominator of which shall be 31. Upon approval and payment of this invoice by City, City shall be under no further obligation to Contractor monetarily or otherwise.

21. Contractor's Default

Failure or refusal of the Contractor to perform or do any act herein required shall constitute a default. In the event of any default, in addition to any other remedy available to the Director of Public Works, this contract may be terminated by the Director of Public Works pursuant to the terms of Section 20 herein. Such termination shall not waive any other legal remedies available to the Director of Public Works.

22 Conflict of Interest

Contractor states that it is familiar with provisions of Section 8.105 of the Charter of City, and Section 87100 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provisions.

23. Other Agreements between City and Contractor

Contractor agrees that neither it nor any of Contractor's employees has any interest, however remote, in any other Agreement with City, whether or not such Agreement is with Contractor's firm, affiliate firms, or through separate employment, except as expressly itemized in Appendix C, "Contractor's and Contractor's Employees' Interests in Other City Contracts," hereto attached. Failure to disclose such information will result in termination of this Agreement pursuant to Section 20 herein.

24. Proprietary or Confidential Information of City

Contractor understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Contractor agrees that all information disclosed by City to Contractor shall be held in confidence and used only in performance of the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

25. Notices to the Parties

All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and registered as follows:

To City: Department of Public Works
Division of Contract Administration
875 Stevenson Street, Room 420
San Francisco, CA 94103

To Contractor: GEOMATRIX Consultants, Inc.
100 Pine Street, 10th Floor
San Francisco, CA 94111

26. Ownership of Results

Any interest of Contractor or its Subcontractors, in drawings, plans, specifications, studies, reports, memoranda, computation sheets or other documents prepared by Contractor or its Subcontractors in connection with services to be performed under this Agreement shall become the property of and will be transmitted to City. However, Contractor may retain and use copies for reference and as documentation of its experience and capabilities.

27. Audit and Inspection of Records

Contractor agrees to maintain and make available to City during business hours accurate books and accounting records relative to its activities under this Agreement. Contractor will permit City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of not less than five years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any Federal agency having an interest in the subject of this Agreement shall have the same rights conferred upon City by this Section.

28. Subcontracting

Contractor is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is approved by written instrument executed and approved in the same manner as this Agreement. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. An Agreement made in violation of this provision shall confer no rights on any party and shall be null and void.

29. Assignment

The services to be performed by Contractor are personal in character and neither this Agreement nor any duties or obligations hereunder shall be assigned or delegated by Contractor unless approved by written instrument executed and approved in the same manner as this Agreement.

30. Equal Opportunity Employment and Business Practices; Liquidated Damages

Contractor agrees to comply fully with all provisions of Chapters 12B and 12D of the San Francisco Administrative Code, as amended from time to time. Said provisions are incorporated herein by reference and made a part of this contract as though fully set forth.

In the event Contractor willfully fails to comply with any of the provisions of Chapter 12D, Contractor shall be liable for liquidated damages for each contract in an amount equal to Contractor's net profit on the contract, or ten percent (10%) of the total amount of the contract, or one thousand dollars ($1,000), whichever is greatest. The amount of liquidated damages imposed will be determined by the Director of the HRC after investigation pursuant to Section 12D.14(C).

By entering into this contract, Contractor acknowledges and agrees that any liquidated damages assessed by the Director of the HRC shall be payable to City upon demand. Contractor further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to Contractor on any contract with City.

Pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of fifty dollars ($50) for each person for each calendar day during which such person was discriminated against in violation of the provisions of this contract may be deducted from payments due to Contractor.

31. Compliance with South Africa Divestment Ordinance; Liquidated Damages

Not Applicable.

32. MacBride Principles--Northern Ireland

The City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

33. Drug-Free Workplace Policy

This section does not apply as Federal funds are not involved under this contract.

34 Non-Waiver of Rights

The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

35. Modification of Agreement

This Agreement may not be modified, nor may compliance with any of its terms waived, except by written instrument executed and approved in the same manner as this Agreement.

36. Administrative Remedy for Agreement Interpretation

Should any question arise as to the meaning and intent of this Agreement, the question shall, prior to any other action or resort to any other legal remedy, be referred to the Director of Public Works who shall decide the true meaning and intent of the Agreement.

37. Agreement Made in California; Venue

The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California, excluding its conflict of laws rules. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

38. Construction

All paragraph captions are for reference only and shall not be considered in construing this Agreement.

39. Entire Agreement

This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This contract may be modified only as provided in Section 35.

40. Tropical Hardwood and Virgin Redwood Ban

The City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood or tropical hardwood wood product, virgin redwood or virgin redwood wood product.

41. Ownership of Equipment

Any equipment vehicles, computer programs (software licenses and media), etc. purchased by the Contractor or its subcontractors in connection with services to be performed under this Agreement shall become property of and will be transmitted to the City.

42. Guaranteed Maximum Costs

a. The City's obligations hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification.

b. Except as may be provided by City ordinances governing emergency conditions, the City and its employees and officers are not authorized to request Contractor to perform services that would result in Contractor performing services that are beyond the scope of the services agreed upon in the contract unless the agreement is amended in writing and approved as required by law to authorize the additional services.

c. The City and its employees and officers are not authorized to offer or promise to Contractor additional funding for the contract which would exceed the maximum amount of funding provided for in the contract for Contractor's performance under the contract. Additional funding for the contract in excess of the maximum provided in the contract shall require lawful approval and certification by the Controller of the City and County of San Francisco. The City is not required to honor any offered or promised additional funding for a contract which exceeds the maximum provided in the contract which requires lawful approval and certification of the Controller when the lawful approval and certification by the Controller has not been obtained.

d. The Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget of by supplemental appropriation.

43. Burma (Myanmar) Business Prohibition

Contractor is not the government of Burma (Myanmar), a person or business entity organized under the laws of Burma (Myanmar) or a "prohibited person or entity" as defined in Section 12J.2(G) of the San Francisco Administrative Code. The City reserves the right to terminate this contract for default if the Contractor violates the terms of this section.

Chapter 12J of the San Francisco Administrative Code is hereby incorporated by reference as though fully set forth herein. The failure of Contractor to comply with any of its requirements shall be deemed a material breach of contract. In the event that Contractor fails to comply in good faith with any of the provisions of Chapter 12J of the San Francisco Administrative Code, Contractor shall be liable for liquidated damages for each violation in an amount equal to Contractor's net profit under the contract, or 10% of the amount of the contract, or $1,000, whichever is greatest. Contractor acknowledges and agrees that the liquidated damages assessed shall be payable to the City upon demand and may be set off against any moneys due to the Contractor from any City contract.

44. Sunshine Ordinance

Contracts, contractor's bids, responses to requests for proposals and all other records of communications between the department and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this subdivision will be made available to the public upon request.

45. Non-Discrimination in City Contracts and Benefits Ordinance

a. Contractor Shall Not Discriminate. In the performance of this Agreement, Contractor agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with Contractor, in any of Contractor's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Contractor.

b. Subcontracts. Contractor shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

c. Non-Discrimination in Benefits. Contractor does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco or where the work is being performed for the City or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

d Condition to Contract. As a condition to this Agreement, Contractor shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

e Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Contractor understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of $50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Contractor and/or deducted from any payments due Contractor.

46. Submitting False Claims; Monetary Penalties

Any contractor, subcontractor or consultant who commits any of the following acts shall be liable to the City for three times the amount of damages which the City sustains because of the act of that contractor, subcontractor or consultant. A contractor, subcontractor or consultant who commits any of the following acts shall be liable to the City for the costs, including attorney's fees, of a civil action brought to recover any of those penalties or damages, and may be liable to the City for a civil penalty of up to $10,000 for each false claim: (a) Knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval. (b) Knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City. (c) Conspires to defraud the City by getting a false claim allowed or paid by the City. (d) Knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City. (e) Is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

CITY

Recommended by: S Mullennings

Signature

Don Eng, Chief, Bureau of Construction Management

Approved as to Form:
Louise H. Renne
City Attorney

By Geoge U. Wong
Deputy City Attorney

Approved:

Mark A. Primeau, AIA
Director of Public Works
and City Architect

Approved:

N/A
Edwin Lee
Director of Purchasing

Approved:

Only Required if >$50 & Non-Project Related Services
Director of Administrative Services

CONTRACTOR

GEOMATRIX Consultants, Inc.
Name

100 Pine Street, 10th Floor
Address

San Francisco	CA	94111
City	State	Zip

I have read and understood Sec. 32, the City's statement urging companies doing business in Northern Ireland to move towards resolving employment inequities, encouraging compliance with the MacBride Principles, and urging San Francisco companies to do business with corporations that abide by the MacBride Principles.

By James C. Price
Signature

JAMES C. PRICE VICE PRESIDENT
Name Title

(415) 743-7097
Area Code Phone Number

94-2934407
Federal Employer Number

APPENDIX A

SCOPE OF WORK

e Consultant shall provide Environmental and Civil Engineering Consultation Services pertaining to Treasure Island and Yerba Buena Island (and related areas involving former Federal authority now part of Base Conversion evaluation and reuse).

Services shall include, but not be limited to review and comment on the Navy's remedial investigations, feasibility reports and other relevant documents pertaining to their investigations and site cleanup activities.

GEOMATRIX shall act as prime consultant directing the activities of subconsultants Olivia Chen Consultants, Inc., Micro Analytical Labs, Inc., AFA Construction, Inc., and Chromalab, Inc. Additional subconsultants may be added as long as overall HRC participation goals are maintained.

APPENDIX B

SCHECULE OF VALUES

GEOMATRIX CONSULTANTS, INC.

SCHEDULE OF VALUES

Schedule of Values
Geomatrix Consultants, Inc.

Personnel Category	*Hourly Rate ($) per Classification*	*Fringe Benefits (32.5% of Labor)*	*Overhead (161.13% of Labor)*	*Fee (10% of Total Cost)*	*Total Hours Rate ($)*
Principal	41.35 - 75.00	13.44 - 24.38	66.63 - 120.85	12.14 - 22.02	133.56 - 242.24
Senior II	31.25 - 43.23	10.16 - 14.05	50.35 - 69.66	9.18 - 12.69	100.94 - 139.63
Senior I	30.00 - 41.20	9.75 - 13.39	48.34 - 66.39	8.81 - 12.10	96.90 - 133.07
Project II	25.73 - 37.00	8.36 - 12.03	41.46 - 59.62	7.56 - 10.86	83.11 - 119.51
Project I	20.20 - 33.00	6.57 - 10.73	32.55 - 53.17	5.93 - 9.69	65.24 - 106.59
Staff II	19.24 - 30.00	6.25 - 9.75	31.00 - 48.34	5.65 - 8.81	62.14 - 96.90
Staff I	14.91 - 30.00	4.85 - 9.75	24.02 - 48.34	4.38 - 8.81	48.16 - 96.90
Senior Technician	14.91 - 21.74	4.85 - 7.07	24.02 - 35.03	4.38 - 6.38	48.16 - 70.22
Field Technician	12.00 - 14.91	3.90 - 4.85	19.34 - 24.02	3.52 - 4.38	38.76 - 48.16
CAD/Graphics	16.50 - 28.61	5.36 - 9.30	26.59 - 46.10	4.84 - 8.40	53.29 - 92.41
Project Assistant	12.00 - 23.27	3.90 - 7.56	19.34 - 37.49	3.52 - 6.83	38.76 - 75.16
Technical Editor	22.46 - 22.46	7.30 - 7.30	36.19 - 36.19	6.59 - 6.59	72.54 - 72.54
Technical Typist	15.87 - 21.50	5.16 - 6.99	25.57 - 34.64	4.66 - 6.31	51.26 - 69.44
Production Assistant	6.00 - 15.00	1.95 - 4.88	9.67 - 24.17	1.76 - 4.40	19.38 - 48.45

CHROMALAB, INC.
(SECONDARY LABORATORY)

SCHEDULE OF VALUES AND CERTIFICATION

July, 98

CHROMALAB, INC.

Environmental Services (SDB)

PRICE LIST EXCLUSIVELY FOR GEOMATRIX

Soil and Water same price 5 Day Turnaround Time

TPH--Total Petroleum Hydrocarbons

TPH gasoline/BTEX, gasoline, or BTEX	EPA 5030/8015 /8020	$60.00
TPH gasoline/BTEX with MTBE	EPA 5030/8015 /8020 *(MTBE confirmed by MS)*	75.00
TPH diesel	EPA 3550 or 3510/8015M	60.00
TPH diesel and motor oil (TEPH)	EPA 3550 or 3510/8015M	75.00
TPH extractable scan, other hydrocarbons	EPA 3550 or 3510/8015M	75.00
Fuel Oxygenates *(MTBE, TAME, ETBE, DIPE, TBA)*	EPA 8260M	150.00
Oil and grease	Std Meth 5520 E&F or B&F, EPA 413.1	50.00

Organic Analysis

Volatile halocarbons (CIHC)	EPA 8010	80.00
Volatile aromatics	EPA 8020	80.00
Volatile organics	EPA 8240 or 8260	150.00
Semivolatile organics	EPA 8270	275.00
Polynuclear Aromatic Hydrocarbons (PAH, PNA)	EPA 8270 *(GC/MS)*	150.00
Polynuclear Aromatic Hydrocarbons (PAH, PNA)	EPA 8310 *(HPLC)*	175.00
Phenols	EPA 8270	150.00
Organochlorine pesticides and PCBs	EPA 8080	125.00
PCBs	EPA 8080 PCBs in oil 67.50	100.00
Nitroaromatics and Nitramines (Explosives)	EPA 8330 Water 250.00	Soil 175.00
Glycols	EPA 8015M	125.00
Alcohols	EPA 8015M	125.00

Metals Analysis--TTLC

LUFT heavy metals (5 metals)	EPA 6010 (ICP)	80.00
RCRA metals (8 metals)	EPA 6010 and 7470/7471	115.00
Priority pollutants (13 metals)	EPA 6010 and 7470/7471	125.00
Title 22 (CAM 17 metals)	EPA 6010 and 7470/7471	150.00
Individual metals (price per metal)	EPA 6010, 7420	22.50
Mercury (cold vapor)	EPA 7470/7471	45.00
Hexavalent chromium	EPA 7196	55.00

Extraction Methods and General Chemistry Tests

TCLP, STLC (CAM WET) extraction	EPA 1311/W.E.T.	75.00
TCLP for volatile organics (ZHE)	EPA 1311	100.00
RCI (reactivity, corrosivity, and ignitability in soil)	CA Title 22	67.50
pH or Specific Conductance	EPA 9040/9045/9050 Water 9.50	Soil 20.00
TDS, TSS, or Settleable Solids (SS)	EPA 160.1, 160.2, 160.5	20.00
% Moisture/ dry weight result	EPA SW 846	20.00
Flashpoint	EPA 1010	35.00
Compositing and disposal fee (per container)		3.75

Air Analysis--Samples in Tedlar bags, includes RUSH charges

TPH gasoline/BTEX	EPA 5030/8015/8020	100.00
Halogenated organics	EPA 8010	120.00
Volatile organics *by GC/MS*	EPA 8240	250.00

Other Services:

Sample pickup in the Bay Area	No charge
Filtration	10.00
Silica gel cleanup	15.00
Crushing & homogenizing sample	quote

EPA Level 2 Report	No charge on request
Chromatograms, each	5.00
Reprinted report ($10 minimum)	1.00/page
Electronic report (EDD)	add 5%
Minimum Invoice $50	Minimum Visa/MC $20

Materials:

Glass VOA, 1 L amber glass, plastic sample jars	No charge
Brass/stainless sleeve	3.00
2 1/2 gallon cubitainer	10.00

Rush Charges:

Three days turnaround	add 25%
48 hours	add 50%
24 hours	add 100%
Same day, Overnight, or Weekend	add 200%

1220 Quarry Lane • Pleasanton, California 94566-4756
(925) 484-1919 • Facsimile (925) 484-1096

STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

PETE WILSON, Governor

DEPARTMENT OF HEALTH SERVICES
2[illegible] BERKELEY WAY
3[illegible]Y, CA 94704-1011
(510)540-2800

June 3, 1996

Eric T. Tam
Chromalab, Inc.
1220 Quarry Lane
Pleasanton, CA 94566-4756

Certificate No.: 1094

REC'D JUN 12 1996

Dear Mr. Tam:

This is to advise you that the laboratory named above has been certified as an environmental testing laboratory pursuant to the provisions of the California Environmental Laboratory Improvement Act of 1988 (Health and Safety Code, Division 1, Part 2, Chapter 7.5, commencing with Section 1010).

The fields of testing for which this laboratory has been certified under this Act are indicated in the enclosed "List of Approved Fields of Testing and Analytes." Certification shall remain in effect until January 31, 1998 unless revoked. This certificate is subject to an annual fee as prescribed by Section 1017(a), Health and Safety Code, on the anniversary date of the certificate.

Please note that your laboratory is required to notify the Environmental Laboratory Accreditation Program of any major changes in the laboratory such as the transfer of ownership, change of laboratory director, change in location, or structural alterations which may affect adversely the quality of analyses (Section 1014(b), California Health & Safety Code).

Please note that the new regulations pertaining to environmental laboratories were adopted on December 5, 1994 and may be found in the California Code of Regulations, Title 22, Division 4, Chapter 19, Sections 64801 through 64827.

Your continued cooperation is essential in order to establish a reputation for the high quality of the data produced by environmental laboratories certified by the State of California.

If you have additional questions, please contact Aida S. Dente at (510) 540-2800.

Sincerely,

George C. Kulasingam

George C. Kulasingam, Ph.D., Manager
Environmental Laboratory
Accreditation Program

Enclosure

ENVIRONMENTAL LABORATORY ACCREDITATION/REGISTRATION
List of Approved Fields of Testing and Analytes

Chromalab, Inc.
1220 Quarry Lane
Pleasanton, CA

TELEPHONE No: (510) 484-1919
CALIFORNIA COUNTY: Contra Costa

CERTIFICATE NUMBER: 1094
EXPIRATION DATE: 1/31/98

1 Microbiology of Drinking Water and Wastewater (--------)

1.1	Total Coliforms in Drinking Water by Multiple Tube Fermentation	N
1.2	Fecal Coliforms/E. Coli in Drinking Water by MTF	N
1.3	Total Coliforms in Drinking Water by Membrane Filter Technics	N
1.4	Fecal Coliforms/E. Coli in Drinking Water by Membrane Filter Technics	N
1.5	Total Coliforms and E. Coli in Drinking Water by MMO-MUG	N
1.6	Total Coliforms in Drinking Water by Clark's Presence/Absence	N
1.7	Fecal Coliforms/E. Coli in Drinking Water by Clark's Presence/Absence	N
1.8	Heterotrophic Plate Count	N
1.9	Total Coliforms in Wastewater by Multiple Tube Fermentation	N
1.10	Fecal Coliforms in Wastewater by MTF	N
1.11	Total Coliforms in Wastewater by Membrane Filter Technics	N
1.12	Fecal Coliforms in Wastewater by Membrane Filter Technics	N
1.13	Fecal Streptococci or Enterococci by Multiple Tube Technics	N
1.14	Fecal Streptococci or Enterococci by Membrane Filter Technics	N

2 Inorganic Chemistry and Physical Properties of Drinking Water excluding Toxic Chemical Elements (--------)

2.1	Alkalinity	N
2.2	Calcium	N
2.3	Chloride	N
2.4	Corrosivity	N
2.5	Fluoride	N
2.6	Hardness	N
2.7	Magnesium	N
2.8	MBAS	N
2.9	Nitrate	N
2.10	Nitrite	N
2.11	Sodium	N
2.12	Sulfate	N
2.13	Total Filterable Residue and Conductivity	N
2.14	Iron (Colorimetric Methods Only)	N
2.15	Manganese (Colorimetric Methods Only)	N
2.16	Phosphate, ortho	N
2.17	Silica (Colorimetric Methods Only)	N
2.18	Cyanide	N

3 Analysis of Toxic Chemical Elements in Drinking Water (04-11-91)

3.1	Arsenic	Y
3.2	Barium	N
3.3	Cadmium	N
3.4	Chromium, total	N
3.5	Copper	Y
3.6	Iron	N
3.7	Lead	Y
3.8	Manganese	N
3.9	Mercury	Y
3.10	Selenium	N
3.11	Silver	N
3.12	Zinc	N
3.13	Aluminum	N
3.14	Asbestos	N
3.15	EPA Method 200.7	Y
3.16	EPA Method 200.8 (Unregulated Elements and Lead Only)	N
3.17	Antimony	N
3.18	Beryllium	N
3.19	Nickel	N
3.20	Thallium	Y

4 Organic Chemistry of Drinking Water (measurement by GC/MS combination) (01-26-90)

4.1	EPA Method 501.3	N
4.2	EPA Method 524.2	Y
4.3	EPA Method 525	N
4.4	EPA Method 513	N

5 Organic Chemistry of Drinking Water (excluding measurements by GC/MS combination) (01-13-93)

5.1	EPA Method 501.1	N
5.2	EPA Method 501.2	N
5.3	EPA Method 502.1	Y
5.4	EPA Method 502.2	Y
5.5	EPA Method 503.1	Y
5.6	EPA Method 504	N
5.7	EPA Method 505	N
5.8	EPA Method 506	N
5.9	EPA Method 507	N
5.10	EPA Method 508	N
5.11	EPA Method 508A	N
5.12	EPA Method 510.1	N
5.13	EPA Method 515.1	N
5.14	EPA Method 531.1	N
5.15	EPA Method 547	N
5.16	EPA Method 548	N
5.17	EPA Method 549	N
5.18	EPA Method 550	N
5.19	EPA Method 550.1	N
5.20	EPA Method 551	N
5.21	EPA Method 552	N

CERTIFICATE NUMBER: 1094
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6 Radiochemistry (--------)

6.1 Gross Alpha and Beta Radiation ----- N
6.2 Total Radium ---------- N
6.3 Radium 226 ---------- N
6.4 Uranium ---------- N
6.5 Radon 222 ---------- N
6.6 Radioactive Cesium ---------- N
6.7 Iodine 131 ---------- N
6.8 Radioactive Strontium ---------- N
6.9 Tritium ---------- N
6.10 Gamma and Photon Emitters --------- N
6.11 Gross Alpha by Co-precipitation --------- N
6.12 Radium 228 ---------- N
6.13 Radioactive Iodine ---------- N
6.14 Gross Alpha & Beta in Hazardous Wastes -- N
6.15 Alpha Emitting Radium Isotopes in Haz. Wastes ---------- N
6.16 Radium 228 in Hazardous Wastes --------- N

7 Shellfish Sanitation (--------)

7.1 Shellfish meat Microbiology ---------- N
7.2 Paralytic Shellfish Poison ---------- N
7.3 Domoic Acid ---------- N

8 Aquatic Toxicity Bioassays (------)

8.1 Hazardous Waste Aquatic Toxicity Bioassay (Title 22, CCR, 66261.24(a)(6)) ---------- N
8.2 Wastewater Testing According to Kopperdahl (1976) using Freshwater Fish. ---------- N
8.3 Wastewater Testing According to EPA/600/4-85/013 using Freshwater and/or Marine Organisms --------- N
8.4 Wastewater Testing by EPA Method 1000.0 ---------- N
8.5 Wastewater Testing by EPA Method 1002.0 ---------- N
8.6 Wastewater Testing by EPA Method 1003.0 ---------- N
8.7 Wastewater Testing by EPA Method 1006 ---------- N
8.8 Wastewater Testing by EPA Method 1007 ---------- N
8.9 Wastewater Testing by EPA Method 1009 ---------- N
8.10 Wastewater Testing According to Anderson, et. al. (1990) using Giant Kelp (Macrocystis pyrifera) -- N
8.11 Wastewater Testing According to Anderson, et. al. (1990) using Red Abalone (Haliotus rufescens) --- N
8.12 Wastewater Testing According to Dinnel and Stober (1987) using Purple Sea Urchin (Strongylocentrotus purpuratus) ---------- N
8.13 Wastewater Testing According to Dinnel and Stober (1987) using Red Sea Urchin (Strongylocentrotus franciscanus) ---------- N
8.14 Wastewater Testing According to Dinnel and Stober (1987) using Sand Dollar (Dendraster excentricus) ---------- N
8.15 Wastewater Testing According to procedure E 724-89 (ASTM, 1989) using Pacific Oyster (Crassostrea gigas) ---------- N
8.16 Wastewater Testing According to procedure E 724-89 (ASTM, 1989) using California Bay Mussel (Mytilus edulis) ---------- N
8.17 Wastewater Testing According to Standard Methods (APHA, 1989) using an alga (Skeletonema costatum) ---------- N
8.18 Wastewater Testing According to EPA/600/4-90/027 using Freshwater and/or Marine Organisms --------- N

9 Physical Properties Testing of Hazardous Waste (04-11-91)

9.1 Ignitability by Flashpoint determination (Title 22, CCR, 66261.21) ---------- Y
9.2 Corrosivity - pH determination (Title 22, CCR, 66261.22) ---------- Y
9.3 Corrosivity - Corrosivity towards steel (Title 22, CCR, 66261.22) ---------- N
9.4 Reactivity (Title 22, CCR, 66261.23) ---------- Y

10 Inorganic Chemistry and Toxic Chemical Elements of Hazardous Waste

10.1 Antimony
7040(--------) ---------- N
7041(--------) ---------- N
10.2 Arsenic
7060(12-22-95) ---------- Y
7061(--------) ---------- N
10.3 Barium
7080(--------) ---------- N
7081(--------) ---------- N
10.4 Beryllium
7090(--------) ---------- N
7091(--------) ---------- N
10.5 Cadmium
7130(--------) ---------- N
7131(--------) ---------- N
10.6 Chromium, total
7190(--------) ---------- N
7191(--------) ---------- N
10.7 Cobalt
7200(--------) ---------- N
7201(--------) ---------- N
10.8 Copper
7210(01-09-90) ---------- Y
7211(--------) ---------- N
10.9 Lead
7420(01-09-90) ---------- Y
7421(12-22-95) ---------- Y
10.10 Mercury
7470(--------) ---------- N
7471(05-13-94) ---------- Y
10.11 Molybdenum
7480(--------) ---------- N
7481(--------) ---------- N
10.12 Nickel
7520(--------) ---------- N

CERTIFICATE NUMBER: 1094
EXPIRATION DATE: 1/31/98

10.13 Selenium
7740(--------) ---------- N
7741(12-22-95) ---------- Y
10.14 Silver
7760(--------) ---------- N
7761(--------) ---------- N
10.15 Thallium
7840(--------) ---------- N
7841(12-22-95) ---------- Y
10.16 Vanadium
7910(--------) ---------- N
7911(--------) ---------- N
10.17 Zinc
7950(--------) ---------- N
7951(--------) ---------- N
10.18 Chromium (VI)
7195(--------) ---------- N
7196(04-11-91) ---------- Y
7197(--------) ---------- N
7198(--------) ---------- N

10.19 Cyanide
9010(01-13-93) ---------- Y
10.20 Fluoride
300.0(--------) ---------- N
340.1(--------) ---------- N
340.2(--------) ---------- N
340.3(--------) ---------- N
10.21 Sulfide
9030(05-06-94) ---------- Y
10.22 Total Organic Lead
(---------) ---------- N
10.23 EPA Method 6010(01-13-93) ---------- Y
10.24 EPA Method 6020(--------) ---------- N

11 Extraction Tests of Hazardous Waste (04-11-91)

11.1 California Waste Extraction Test (WET) (Title 22, CCR, 66261.100, Appendix II) ---------- Y
11.2 Extraction Procedure Toxicity ---------- Y
11.3 Toxicity Characteristic Leaching Procedure (TCLP) All Classes ---------- Y
11.4 Toxicity Characteristic Leaching Procedure (TCLP) Inorganics Only ---------- N
11.5 Toxicity Characteristic Leaching Procedure (TCLP) Extractables Only ---------- N
11.6 Toxicity Characteristic Leaching Procedure (TCLP) Volatiles Only ---------- N

12 Organic Chemistry of Hazardous Waste (measurement by GC/MS combination)

12.1 EPA Method 8240(06-05-89) ---------- Y
12.2 EPA Method 8250(--------) ---------- N
12.3 EPA Method 8270(06-05-89) ---------- Y
12.4 EPA Method 8280(--------) ---------- N
12.5 EPA Method 8290(--------) ---------- N
12.6 EPA Method 8260(01-13-93) ---------- Y

13 Organic Chemistry of Hazardous Waste (excluding measurements by GC/MS combination)

13.1 EPA Method 8010(03-18-88) ---------- Y
13.2 EPA Method 8015(03-18-88) ---------- Y
13.3 EPA Method 8020(03-18-88) ---------- Y
13.4 EPA Method 8030(--------) ---------- N
13.5 EPA Method 8040(03-18-88) ---------- Y
13.6 EPA Method 8060(--------) ---------- N
13.7 EPA Method 8080(03-18-88) ---------- Y
13.8 EPA Method 8090(--------) ---------- N
13.9 EPA Method 8100(01-13-93) ---------- Y
13.10 EPA Method 8120(--------) ---------- N
13.11 EPA Method 8140(--------) ---------- N
13.12 EPA Method 8150(--------) ---------- N

13.13 EPA Method 8310(06-03-96) ---------- Y
13.14 EPA Method 632 (--------) ---------- N
13.15 Total Petroleum Hydrocarbons
(LUFT Manual) (03-18-88)---------- Y
13.16 EPA Method 8011(--------) ---------- N
13.17 EPA Method 8021(--------) ---------- N
13.18 EPA Method 8070(--------) ---------- N
13.19 EPA Method 8110(--------) ---------- N
13.20 EPA Method 8141(--------) ---------- N
13.21 EPA Method 8330(06-03-96) ---------- Y

14 Bulk Asbestos Analysis (--------)

14.1 1% or Greater Asbestos Concentrations (Title 22, CCR, 66261.24(a)(2)(A)) ----------N

15 Substances Regulated Under the California Safe Drinking Water and Toxic Enforcement Act (Proposition 65) and Not Included in Other Listed Groups.

16 Wastewater Inorganic Chemistry, Nutrients and Demand (04-11-91)

16.1 Acidity ---------- N
16.2 Alkalinity ---------- N
16.3 Ammonia ---------- N
16.4 Biochemical Oxygen Demand ---------- N
16.5 Boron ---------- Y
16.6 Bromide ---------- N
16.7 Calcium ---------- Y
16.8 cBOD ---------- N
16.9 Chemical Oxygen Demand ---------- N
16.10 Chloride ---------- N
16.11 Chlorine Residual, total ---------- N
16.12 Cyanide ---------- N

16.13 Cyanide amenable to Chlorination -------- N
16.14 Fluoride ---------- N
16.15 Hardness ---------- N
16.16 Kjeldahl Nitrogen ---------- N
16.17 Magnesium ---------- Y
16.18 Nitrate ---------- N
16.19 Nitrite ---------- N
16.20 Oil and Grease ---------- Y
16.21 Organic Carbon ---------- N
16.22 Oxygen, Dissolved ---------- N

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16.23 pH ---------- Y
16.24 Phenols ---------- N
16.25 Phosphate, ortho- ---------- N
16.26 Phosphorus, total ---------- N
16.27 Potassium ---------- Y
16.28 Residue, Total ---------- N
16.29 Residue, Filterable (TDS) ---------- N
16.30 Residue, Nonfilterable (TSS) ---------- N
16.31 Residue, Settleable (SS) ---------- N
16.32 Residue, Volatile ---------- N
16.33 Silica ---------- Y
16.34 Sodium ---------- Y
16.35 Specific Conductance ---------- Y
16.36 Sulfate ---------- N
16.37 Sulfide (includes total & soluble) - N
16.38 Sulfite ---------- N
16.39 Surfactants (MBAS) ---------- N
16.40 Tannin and Lignin ---------- N
16.41 Turbidity ---------- N
16.42 Iron (Colorimetric Only) ---------- N
16.43 Manganese (Colorimetric Only) ---------- N
16.44 Total Recoverable Petroleum Hydrocarbons ---------- Y
16.45 Total Organic Halides ---------- N

17 Toxic Chemical Elements in Wastewater (04-11-91)

17.1 Aluminum ---------- N
17.2 Antimony ---------- N
17.3 Arsenic ---------- Y
17.4 Barium ---------- N
17.5 Beryllium ---------- N
17.6 Cadmium ---------- N
17.7 Chromium (VI) ---------- N
17.8 Chromium, total ---------- N
17.9 Cobalt ---------- N
17.10 Copper ---------- Y
17.11 Gold ---------- N
17.12 Iridium ---------- N
17.13 Iron ---------- N
17.14 Lead ---------- Y
17.15 Manganese ---------- N
17.16 Mercury ---------- Y
17.17 Molybdenum ---------- N
17.18 Nickel ---------- N
17.19 Osmium ---------- N
17.20 Palladium ---------- N
17.21 Platinum ---------- N
17.22 Rhodium ---------- N
17.23 Ruthenium ---------- N
17.24 Selenium ---------- Y
17.25 Silver ---------- N
17.26 Strontium ---------- N
17.27 Thallium ---------- N
17.28 Tin ---------- N
17.29 Titanium ---------- N
17.30 Vanadium ---------- N
17.31 Zinc ---------- Y
17.32 EPA Method 200.7 ---------- Y
17.33 EPA Method 200.8 ---------- N
17.34 DCP ---------- N
17.35 Asbestos ---------- N

18 Organic Chemistry of Wastewater (measurements by GC/MS combination (01-26-90)

18.1 EPA Method 624 ---------- Y
18.2 EPA Method 625 ---------- Y
18.3 EPA Method 1613 ---------- N
18.4 EPA Method 1625 ---------- N
18.5 EPA Method 613 ---------- N

19 Organic Chemistry of Wastewater (excluding measurements by GC/MS combination) (04-11-91)

19.1 EPA Method 601 ---------- Y
19.2 EPA Method 602 ---------- Y
19.3 EPA Method 603 ---------- N
19.4 EPA Method 604 ---------- Y
19.5 EPA Method 605 ---------- N
19.6 EPA Method 606 ---------- N
19.7 EPA Method 607 ---------- N
19.8 EPA Method 608 ---------- Y
19.9 EPA Method 609 ---------- N
19.10 EPA Method 610 ---------- N
19.11 EPA Method 611 ---------- N
19.12 EPA Method 632 ---------- N
19.13 EPA Method 619 ---------- N

20 Inorganic Chemistry and Toxic Chemical Elements of Pesticide Residues in Food (--------)

20.1 Processed Foods by One of the Following Methods
- Atomic Absorption Spectrophotometry ---------- N
- Inductively Coupled Plasma Atomic Emission Spectrophotometry ---------- N
- Inductively Coupled Plasma/Mass Spectrometry ---------- N
- Colorimetry ---------- N

20.2 Raw Commodities by One of the Following Methods
- Atomic Absorption Spectrophotometry ---------- N
- Inductively Coupled Plasma Atomic Emission Spectrophotometry ---------- N
- Inductively Coupled Plasma/Mass Spectrometry ---------- N
- Colorimetric ---------- N

20.3 Dairy Products by One of the Following Methods
- Atomic Absorption Spectrophotometry ---------- N
- Inductively Coupled Plasma Atomic Emission Spectrophotometry ---------- N
- Inductively Coupled Plasma/Mass Spectrometry ---------- N
- Colorimetry ---------- N

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20.4 Feed Products by One of the Following Methods
- Atomic Absorption Spectrophotometry ---------- N
- Inductively Coupled Plasma Atomic Emission Spectrophotometry ---------- N
- Inductively Coupled Plasma/Mass Spectrometry ---------- N
- Colorimetry ---------- N

21 Organic Chemistry of Pesticide Residues in Food (measurements by GC/MS) (--------)

21.1 Gas Chromatographic/Mass Spectrometric Methods in Processed Foods ---------- N
21.2 Gas Chromatographic/Mass Spectrometric Methods in Raw Commodities ---------- N
21.3 Gas Chromatographic/Mass Spectrometric Methods in Dairy Products ---------- N
21.4 Gas Chromatographic/Mass Spectrometric Methods in Feed Products ---------- N

22 Organic Chemistry of Pesticide Residues in Food (Excluding Measurement by GC/MS Combination) - (--------)

22.1 Halogenated Compounds in Processed Foods by One of the Following Methods
- Gas Chromatography ---------- N
- High Pressure Liquid Chromatography ---------- N
- Liquid Chromatography/Mass Spectrometry ---------- N

22.2 Organophosphorous Compounds in Processed Foods by One of the Following Methods
- Gas Chromatography ---------- N
- High Pressure Liquid Chromatography ---------- N
- Liquid Chromatography/Mass Spectrometry ---------- N

22.3 Carbamates in Processed Foods by One of the Following Methods
- Gas Chromatography ---------- N
- High Pressure Liquid Chromatography ---------- N
- Liquid Chromatography/Mass Spectrometry ---------- N

22.4 Halogenated Compounds in Raw Commodities by One of the Following Methods
- Gas Chromatography ---------- N
- High Pressure Liquid Chromatography ---------- N
- Liquid Chromatography/Mass Spectrometry ---------- N

22.5 Organophosphorous Compounds in Raw Commodities by One of the Following Methods
- Gas Chromatography ---------- N
- High Pressure Liquid Chromatography ---------- N
- Liquid Chromatography/Mass Spectrometry ---------- N

22.6 Carbamates in Raw Commodities by One of the Following Methods
- Gas Chromatography ---------- N
- High Pressure Liquid Chromatography ---------- N
- Liquid Chromatography/Mass Spectrometry ---------- N

22.7 Halogenated Compounds in Dairy Products by One of the Following Methods
- Gas Chromatography ---------- N
- High Pressure Liquid Chromatography ---------- N
- Liquid Chromatography/Mass Spectrometry ---------- N

22.8 Organophosphorous Compounds in Dairy Products by One of the Following Methods
- Gas Chromatography ---------- N
- High Pressure Liquid Chromatography ---------- N
- Liquid Chromatography/Mass Spectrometry ---------- N

22.9 Carbamates in Dairy Products by One of the Following Methods
- Gas Chromatography ---------- N
- High Pressure Liquid Chromatography ---------- N
- Liquid Chromatography/Mass Spectrometry ---------- N

22.10 Halogenated Compounds in Feed Products by One of the Following Methods
- Gas Chromatography ---------- N
- High Pressure Liquid Chromatography ---------- N
- Liquid Chromatography/Mass Spectrometry ---------- N

22.11 Organophosphorous Compounds in Feed Products by One of the Following Methods
- Gas Chromatography ---------- N
- High Pressure Liquid Chromatography ---------- N
- Liquid Chromatography/Mass Spectrometry ---------- N

22.12 Carbamates in Feed Products by One of the Following Methods
- Gas Chromatography ---------- N
- High Pressure Liquid Chromatography ---------- N
- Liquid Chromatography/Mass Spectrometry ---------- N

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS — MRD
HTRW MANDATORY CENTER OF EXPERTISE
12565 WEST CENTER ROAD
OMAHA, NEBRASKA 68144-3869

REPLY TO
ATTENTION OF

December 6, 1996

Hazardous, Toxic and Radioactive Waste
Center of Expertise

Chromalab, Inc.
1220 Quarry Lane, #C
Pleasanton, California 94566-4756

Gentlemen:

This correspondence addresses the ongoing validation status of Chromalab, Inc. of Pleasanton, California by the U.S. Army Corps of Engineers (USACE) Hazardous, Toxic and Radioactive Waste Center of Expertise (HTRW CX) for HTRW analysis.

With the inclusion of the recent successful analysis for Polynuclear Aromatic Hydrocarbons by Method 8310, your laboratory has successfully analyzed performance evaluation samples as listed below:

METHOD	PARAMETERS	MATRIX
8260A	Volatile Organics	Water(3)
8260A	Volatile Organics	Solids
8021	Volatile Organics	Water(3)
8021	Volatile Organics	Solids
8020	Aromatic Volatile Organics	Water(3)
8020	Aromatic Volatile Organics	Solids
8270A	Semivolatile Organics	Water(3)
8270A	Semivolatile Organics	Solids(3)
8081	Organochlorine Pesticides	Water(3)
8081	Organochlorine Pesticides	Solids
8081	Polychlorinated Biphenyls	Water(3)
8081	Polychlorinated Biphenyls	Solids(3)
8310	Polynuclear Aromatic Hydrocarbons	Water(3)
8310	Polynuclear Aromatic Hydrocarbons	Solids
SW-846	TAL Metals(1)	Water(3)
SW-846	TAL Metals(1)	Solids(3)
413.1	Oil & Grease	Water(3)

REC'D DEC 16 1996

MICRO ANALYTICAL LABORATORIES
(PRIMARY LABORATORY)

SCHEDULE OF VALUES AND CERTIFICATION

Micro Analytical Laboratories, Inc.

1998 Price Schedule For

Geomatrix

Effective 7/15/98

Total Lead By Atomic Absorption Spectroscopy (Flame or Furnace)

	3-10 Days	24 Hours	Rush (Priority or Overnight Response)
Paint Chips	13.00	15.00	20.00
Soil / Solid Waste	13.00	15.00	20.00
Dust Wipes	13.00	15.00	20.00
Air Filters	13.00	15.00	20.00
Drinking Water	15.00	15.00	

Total Metals by ICP - Solids, Water, Air Filters

	10 Days	3-5 Days	24 Hours
First Metal	35.00	35.00	35.00
Each Additional Metal	10.00	10.00	10.00
RCRA 8 Metals	140.00	185.00	
CAM 17 Metals (CA Title 22)	230.00	275.00	

Mercury by Cold Vapor AA - Solids, Water, Air Filters

Mercury Analysis	35.00	45.00

Extraction and Analysis - Hazardous Waste Characterization*

	10 Days	3-5 Days
TCLP (Single Metal)	75.00	75.00
STLC (Single Metal)	75.00	75.00

*Extraction preparation for STLC or TCLP on multiple metals: $75.00 per sample.
For analysis, see total metals and mercury prices.

5900 Hollis Street, Suite M
Emeryville, California 94608
(510) 653-0824 (510) 653-1361 Fax

1786 - 18th Street, Suite A
San Francisco, California 94107
(415) 522-5890 (415) 522-5892 Fax

Micro Analytical Laboratories, Inc.

1998 Price Schedule
Submitted To
Geomatrix

Effective 7/15/98

Asbestos by Transmission Electron Microscopy (TEM)

	3-5 Days	24 Hours	Rush (Priority or Overnight)
AHERA Analysis	75.00	100.00	125.00
Yamate II (Modified)	75.00	100.00	125.00
NIOSH 7402	100.00	125.00	150.00

	3-10 Days
Bulk/Dust (Qualitative)	75.00
Bulk (Semi-Quantitative)	125.00
Bulk (Weight %)	250.00
Microvacuum (Structures)	175.00
Drinking Water	150.00

Asbestos by Polarized Light Microscopy (PLM)

	Normal	Rush (Priority or Overnight)
Bulk Sample (EPA Method)	12.00	15.00
Point Count (400 Pts.)	75.00	
Matrix Reduction Prep.	50.00	

Additional layers on roofing samples: $5.00 each.

Fiber Count by Phase Contrast Microscopy (PCM)

	Normal	Rush (Priority or Overnight)
Air Sample (NIOSH 7400 Method)	10.00	12.00

Nuisance Dust Analysis (Total or Respirable)

	Normal	Rush (Priority or Overnight)
Filter Sample (NIOSH 500 or 600)	12.00	15.00

5900 Hollis Street, Suite M
Emeryville, California 94608
(510) 653-0824 (510) 653-1361 Fax

1786 - 18th Street, Suite A
San Francisco, California 94107
(415) 522-5890 (415) 522-5892 Fax

STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

PETE WILSON, Governor

DEPARTMENT OF HEALTH SERVICES
2151 BERKELEY WAY
BERKELEY, CA 94704-1011
(510)540-2800

September 20, 1996

Franco P. Raviola
Micro Analytical Laboratories, Inc.
San Francisco Office
5900 Hollis Street, Suite M
Emeryville, CA 94608-0000

Certificate No.: 2149

Dear Mr. Raviola:

This is to advise you that the laboratory named above has been certified as an environmental testing laboratory pursuant to the provisions of the California Environmental Laboratory Improvement Act of 1988 (Health and Safety Code, Division 1, Part 2, Chapter 7.5, commencing with Section 100825).

The fields of testing for which this laboratory has been certified under this Act are indicated in the enclosed "List of Approved Fields of Testing and Analytes." Certification shall remain in effect until September 30, 1998 unless revoked. This certificate is subject to an annual fee as prescribed by Section 100860(a), Health and Safety Code, on the anniversary date of the certificate. Your application for renewal must be received 90 days before the expiration of your certificate to remain in force according to the California Code of Regulations, Title 22, Division 4, Chapter 19, Sections 64801 through 64827.

Please note that your laboratory is required to notify the Environmental Laboratory Accreditation Program of any major changes in the laboratory such as the transfer of ownership, change of laboratory director, change in location, or structural alterations which may affect adversely the quality of analyses (Section 100845(b), California Health & Safety Code).

Your continued cooperation is essential in order to establish a reputation for the high quality of the data produced by environmental laboratories certified by the State of California.

If you have additional questions, please contact Nelson Lan at (510) 540-2800.

Sincerely,

George C. Kulasingam

George C. Kulasingam, Ph.D., Manager
Environmental Laboratory
Accreditation Program

Enclosure

CALIFORNIA DEPARTMENT OF HEALTH SERVICES
ENVIRONMENTAL LABORATORY ACCREDITATION PROGRAM
List of Approved Fields of Testing and Analytes

Micro Analytical Laboratories, Inc.
1786 - 18th Street, Suite A
San Francisco, CA 94107-2343

TELEPHONE No: (415) 522-5890
CALIFORNIA COUNTY: San Francisco

CERTIFICATE NUMBER: 2149
EXPIRATION DATE: 9/30/98

14 Bulk Asbestos Analysis

14.1 1% or Greater Asbestos Concentrations (Title 22, CCR, 66261.24(a)(2)(A))

(092096)

United States Department of Commerce
National Institute of Standards and Technology

NVLAP®

ISO/IEC GUIDE 25:1990
ISO 9002:1987

Certificate of Accreditation

DEPARTMENT OF COMMERCE ★ UNITED STATES OF AMERICA ★

MICRO ANALYTICAL LABORATORIES, INC.

SAN FRANCISCO, CA

is recognized under the National Voluntary Laboratory Accreditation Program for satisfactory compliance with criteria established in Title 15, Part 285 Code of Federal Regulations. These criteria encompass the requirements of ISO/IEC Guide 25 and the relevant requirements of ISO 9002 (ANSI/ASQC Q92-1987) as suppliers of calibration or test results. Accreditation is awarded for specific services, listed on the Scope of Accreditation for:

BULK ASBESTOS FIBER ANALYSIS

September 30, 1998

Effective through

For the National Institute of Standards and Technology

NVLAP Lab Code: 200054-0

National Institute of Standards and Technology

NVLAP®

National Voluntary Laboratory Accreditation Program

ISO/IEC GUIDE 25:1990
ISO 9002:1987

Scope of Accreditation

Revised Scope 03/11/1998

BULK ASBESTOS FIBER ANALYSIS

NVLAP LAB CODE 200054-0

MICRO ANALYTICAL LABORATORIES, INC.
1786 - 18th Street, Suite A
San Francisco, CA 94107-2343
Mr. Frank Raviola
Phone: 510-653-0824 Fax: 510-653-1361

NVLAP Code	*Designation*
18/A01	U.S. EPA's "Interim Method for the Determination of Asbestos in Bulk Insulation Samples" as found in 40 CFR, Part 763, Subpart F, App. A, or the current U.S. EPA method for the analysis of asbestos in building material.

September 30, 1998

Effective through

For the National Institute of Standards and Technology

United States Department of Commerce
National Institute of Standards and Technology

NVLAP®

ISO/IEC GUIDE 25:1990
ISO 9002:1987

Certificate of Accreditation

DEPARTMENT OF COMMERCE ★ UNITED STATES OF AMERICA ★

MICRO ANALYTICAL LABORATORIES, INC.
EMERYVILLE, CA

is recognized under the National Voluntary Laboratory Accreditation Program for satisfactory compliance with criteria established in Title 15, Part 285 Code of Federal Regulations. These criteria encompass the requirements of ISO/IEC Guide 25 and the relevant requirements of ISO 9002 (ANSI/ASQC Q92-1987) as suppliers of calibration or test results. Accreditation is awarded for specific services, listed on the Scope of Accreditation for:

AIRBORNE ASBESTOS FIBER ANALYSIS

September 30, 1998

Effective through

For the National Institute of Standards and Technology

NVLAP Lab Code: 101872-0

United States Department of Commerce
National Institute of Standards and Technology

NVLAP®

ISO/IEC GUIDE 25:1990
ISO 9002:1987

Certificate of Accreditation

DEPARTMENT OF COMMERCE ★ UNITED STATES OF AMERICA ★

MICRO ANALYTICAL LABORATORIES, INC.
EMERYVILLE, CA

is recognized under the National Voluntary Laboratory Accreditation Program for satisfactory compliance with criteria established in Title 15, Part 285 Code of Federal Regulations. These criteria encompass the requirements of ISO/IEC Guide 25 and the relevant requirements of ISO 9002 (ANSI/ASQC Q92-1987) as suppliers of calibration or test results. Accreditation is awarded for specific services, listed on the Scope of Accreditation for:

BULK ASBESTOS FIBER ANALYSIS

September 30, 1998

Effective through

For the National Institute of Standards and Technology

NVLAP Lab Code: 101872-0

STATE OF CALIFORNIA
DEPARTMENT OF HEALTH SERVICES

ENVIRONMENTAL LABORATORY CERTIFICATION

is hereby granted to

MICRO ANALYTICAL LABORATORIES, INC.

5900 HOLLIS STREET, SUITE M

EMERYVILLE, CALIFORNIA

to conduct analyses of environmental samples as specified in the "List of Approved Fields of Testing and Analytes" which accompanies this Certificate.

This Certificate is granted in accordance with provisions of Section 1010, et seq. (New Section 100825) of the Health and Safety Code.

Certificate No.: 1037

Expiration Date: 10/31/1999

Issued on: 10/01/1997
at Berkeley, California,
subject to forfeiture or revocation.

George C. Kulasingam, Ph.D.
Manager
Environmental Laboratory Accreditation Program

·TATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY

PETE WILSON, Governor

)EPARTMENT OF HEALTH SERVICES
151 BERKELEY WAY
ERKELEY, CA 94704-1011
(510) 540-2800

March 16, 1998

FRANK RAVIOLA
MICRO ANALYTICAL LABORATORIES, INC.
5900 HOLLIS STREET, SUITE M
EMERYVILLE, CA 94608-

Certificate No.: 1037

Dear FRANK RAVIOLA:

This is to advise you that the laboratory named above has been certified as an environmental testing laboratory pursuant to the provisions of the California Environmental Laboratory Improvement Act of 1988 (Health and Safety Code, Division 1, Part 2, Chapter 7.5, commencing with Section 100825).

The Fields of Testing for which this laboratory has been certified under this Act are indicated in the enclosed "List of Approved Fields of Testing and Analytes." Certification shall remain in effect until October 31, 1999 unless revoked. This certificate is subject to an annual fee as prescribed by Section 100860(a), Health and Safety Code, on October 31, 1998. Your application for renewal must be received 90 days before the expiration of your certificate to remain in force according to the California Code of Regulations, Title 22, Division 4, Chapter 19, Section 64801 Through 64827.

Please note that your laboratory is required to notify the Environmental Laboratory Accreditation Program of any major changes in the laboratory such as the transfer of ownership, change of laboratory director, change in location, or structural alterations which may affect adversely the quality of analyses (Section 100845(b) and (d), California Health and Safety Code).

Your continued cooperation is essential in order to establish a reputation for the high quality of the data produced by environmental laboratories certified by the State of California.

If you have any questions, please contact Nelson Lan at (510) 540-2800.

Sincerely,

George C. Kulasingam

George C. Kulasingam, Ph.D., Manager
Environmental Laboratory
Accreditation Program

Enclosure

CALIFORNIA DEPARTMENT OF HEALTH SERVICES
ENVIRONMENTAL LABORATORY ACCREDITATION PROGRAM
List of Approved Fields of Testing and Analytes

MICRO ANALYTICAL LABORATORIES, INC.
5900 HOLLIS STREET, SUITE M
EMERYVILLE, CA

PHONE No. (510) 653-0824
COUNTY ALAMEDA

Certificate No. 1037
Expiration Date 10/31/1999

03 Analysis of Toxic Chemical Elements in Drinking Water

- 03.01 Arsenic
- 03.02 Barium
- 03.03 Cadmium
- 03.04 Chromium, total
- 03.05 Copper
- 03.06 Iron
- 03.07 Lead
- 03.08 Manganese
- 03.09 Mercury
- 03.10 Selenium
- 03.11 Silver
- 03.12 Zinc
- 03.13 Aluminum
- 03.14 Asbestos
- 03.15 Antimony
- 03.16 Beryllium
- 03.17 Nickel

10 Inorganic Chemistry and Toxic Chemical Elements of Hazardous Waste

- 10.01 Antimony
- 10.02 Arsenic
- 10.03 Barium
- 10.04 Beryllium
- 10.05 Cadmium
- 10.06 Chromium, total
- 10.07 Cobalt
- 10.08 Copper
- 10.09 Lead
- 10.10 Mercury
- 10.11 Molybdenum
- 10.12 Nickel
- 10.13 Selenium
- 10.14 Silver
- 10.15 Thallium
- 10.16 Vanadium
- 10.17 Zinc

11 Extraction Tests of Hazardous Waste

- 11.01 California Waste Extraction Test (WET)
- 11.04 Toxicity Characteristic Leaching Procedure (TCLP) Inorganics Only

14 Bulk Asbestos Analysis

- 14.01 Bulk Asbestos, 1% or greater Concentrations

17 Toxic Chemical Elements in Wastewater

- 17.01 Aluminum

17.02	Antimony
17.03	Arsenic
17.04	Barium
17.05	Beryllium
17.06	Cadmium
17.08	Chromium, total
17.09	Cobalt
17.10	Copper
17.13	Iron
17.14	Lead
17.15	Manganese
17.16	Mercury
17.17	Molybdenum
17.18	Nickel
17.24	Selenium
17.25	Silver
17.27	Thallium
17.28	Tin
17.29	Titanium
17.30	Vanadium
17.31	Zinc
17.32	Asbestos

The American Industrial Hygiene Association

is proud to acknowledge that

Micro Analytical Laboratories, Inc.
Emeryville, CA
Laboratory ID# 11150

has fulfilled the requirements for Industrial Hygiene Laboratory Accreditation and has earned distinguished recognition as an

AIHA IH Accredited Laboratory

Originally Accredited December 1, 1993, current certificate effective December 1, 1996 until December 1, 1999, subject to continued compliance with AIHA accreditation criteria.

Zack Mansdorf

Zack Mansdorf, Ph.D., CIH, CSP, QEP
President, American Industrial Hygiene Association

September 20, 1996
Preparation Date

Donald J. Hart

Donald J. Hart, Ph.D., CIH
Chair, Analytical Accreditation Board

504
Certificate Number

Colleen Becker

Colleen Becker, CIH
Chair, IH Laboratory Accreditation Committee

THE AMERICAN INDUSTRIAL HYGIENE ASSOCIATION
is proud to acknowledge that

Micro Analytical Laboratories, Inc.
Emeryville, CA
Laboratory ID# *11150*

has fulfilled the requirements for the Environmental Lead Laboratory Accreditation Program and has earned distinguished recognition as an

AIHA ELLAP ACCREDITED LABORATORY

12/01/1996 - 12/01/1999

In the following matrices: Paint Soil Dust Air

This program is recognized by the EPA as meeting the requirements of the National Lead Laboratory Accreditation Program established under Title X of the Residential Lead-Based Paint Hazard Reduction Act of 1992 and includes paint, soil and dust wipe analysis. Air analysis is not included as part of the NLLAP.

D. Jeff Burton, CIH, PE, CSP President, American Industrial Hygiene Association	Eric L. Botnick, Chair, Environmental Lead Laboratory Accreditation Committee	Mark Puskar, Ph.D., Chair, Analytical Accreditation Board

APPENDIX C

CONTRACTOR'S AND CONTRACTOR'S EMPLOYEES' INTERESTS IN OTHER CITY CONTRACTS

24th and Utah - Controller's Certification ENCN98000002 -01

Approved 1/12/00

/15/99
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roved

Minutes of Special Meeting
Treasure Island Development Authority
December 15, 1999

Call to Order: 2:07 p.m. in Room 416, City Hall

Roll Call: Present: John Elberling, Vice Chair
James Morales
William Fazande
Anne Halsted
Doug Wong

Excused: Gerald Green
Susan Po-Rufino

2. Approval of Minutes — The minutes were approved
3. Communications — The Commission Secretary stated that there had been none
4. Ongoing Business by Directors and Introduction of New Business by members- There was none.
5. Report of the Treasure Island Project Director Annemarie Conroy
   - Report on access to Treasure Island including public use last month-Ms. Conroy listed various activities including organized rugby, filmy by Bay Area Backroads
   - Status of environmental clean up-Since Martha Walters was ill, no report was given
   - Report on short-term leases- Ms. Conroy reported two: Makowski Productions is leasing for two months a 5000 square foot portion of Building 9 for photo shooting and Rex Liu is on a month-to-month lease for the photo and souvenir shop near the main gate.
   - Update on marina negotiations- Development Director Stephen Proud reported that in accordance with the milestones contained in the Exclusive Negotiating agreement with TIE, a term sheet should have been presented to the Authority. However, several complex issues need to be resolved before such the sheet can be presented. Mr. Proud estimates that at least another 90 days is needed to complete a term sheet.
   - Report on San Francisco-Oakland Bay Bridge/Caltrans issues- Ms. Conroy stated that she will report on the matter at the next meeting since she had been on leave and has not yet received a full briefing from staff.
   - Report on TIHDI- Ms. Sherry Williams, TIHDI Executive Director reported that she would give a detailed report as a part of Item #9 on the agenda.

   - Legislation/hearings affecting Treasure Island- Ms. Conroy reported that there was none.

Ms. Conroy asked Mr. Bob Mahoney, Deputy Executive Director, to report on the Community Meeting held on December 7th under the auspices of the John Stewart Company (JSC). Mr. Mahoney reported that representatives from Muni, AC Transit and Intra-E, an alternative phone and internet provider, were present. Mr. Mahoney stated that residents had questions regarding the Brig and future development on Treasure Island and that future meetings might be jointly convened with TIHDI and the JSC.

Mr. Fazande inquired about increased Muni service and Mr. Mahoney stated that Maggie Lynch, Muni representative, stated that she would convey the request to Muni management. Mr. Elberling, who attended the meeting, stated that Muni promised nothing.

6. Public Comment: Ruth Gravanis urged that the eel grass beds and mudflats in Clipper Cove be protected and that parking for the new marina development be minimized.

7. Resolution authorizing negotiations with California Engineering Contractors (CEC) for lay down area on Treasure Island for retrofit of west span of Bay Bridge (*Action item*)

Mr. Proud explained the background of the request stating that CEC was the successful bidder for Caltrans' retrofit of the east span of the Bay Bridge. Five other firms had bid on the contract and several had approached the Project Office for the cost of a sublease. CEC seeks 3.5 acres of land on a vacant, unpaved lot. The proposed uses would consist of temporary offices in modular units, delivery and storage of fabricated steel, refueling of vehicles and storage of other items. Mr. Proud stated that the Project Office has requested that CEC fence the site and have established requirements for truck traffic. CEC seeks a three-year lease but the Authority would retain the right to terminate with six months notice. The cost to CEC is projected to be 15 cents per square foot or $25,000 per month. CEC would be responsible for all other costs. Because the item seeks authorization for sole source negotiations, a 4/5 vote of all appointed Authority members, is required.

Ms. Halsted inquired about requirements for the condition of the property when CEC vacates. Mr. Proud stated that because environmental issues are at the forefront of the proposed sublease, CEC will be required to leave the property in the same state which they received it. CEC will most likely lay down a concrete pad as a protection.

Mr. Morales asked the following questions: Why are we doing this? What are the alternative sites? What will be the impacts upon residents? How consistent is this proposal with the reuse plan?

Mr. Proud responded that CEC will bring in an interim revenue source, stay on TI for a fixed three-year term and their usage is consistent with the reuse plan because it is a short-term use that generates revenue without interfering with long-term development plans. Ms. Conroy added that approval of a sublease indicates TIDA's support for the interim retrofit of the western span of the Bay Bridge. Mr. Proud stated that impacts will be localized and won't affect residents. Mr. Proud stated that truck traffic will take a separate route from residents' routes.

Mr. Morales asked what kind of trucks CEC will use and the frequency of trips onto TI. Mr. Proud responded that CEC would bring one semi truck every three to four days and use smaller trucks on a daily basis.

Mr. Fazande asked about the storage of hazardous materials. The President of CEC stated that fuel would be stored onsite as well as paint materials extracted from the bridge which will be housed in an enclosed building. Authority members discussed the issue of toxicity and asked what governmental agencies regulated hazardous materials on TI. Mr. Elberling asked about airborne hazardous waste.

Since 4/5 of the total TIDA membership is required to approve sole source negotiations, the Authority could not vote on the item since just 5 members were present and six are needed. Mr. Elberling requested that the item be considered at the January meeting and that questions about hazardous wastes be responded to.

8. Resolution approving sublease with San Francisco Little League (SFLL) (*Action item*)

Mr. Proud explained that the field was constructed by the Navy to Little League specifications and that SFLL is responsible for bringing the field up to play specifications. SFLL would receive preferential scheduling and when the field is not in use by SFLL, four priority users could contact SFLL to schedule time. The four users are TIHDI affiliated residents, Delancey Street residents, TI School students and residents of the John Stewart units.
At the request of the Project Office, Rubicon estimated the cost of initial improvements to the field at $12,000 plus an additional $9,000 annually in maintenance. The value of the total sublease is $34,000. In addition, if SFLL chose to rent the facility to a third party, such fees must be approved by the Executive Director and be used to maintain the premises. The term of the lease is 2.5 years with the Authority retaining the right to terminate the lease six months earlier. SFLL is not required to pay rent.

Public Comment: Jesse Tepper stated he was excited about the project.

Mr. Morales asked if spontaneous public use is permitted and Mr. Proud responded that because the field is not locked, individuals could use the field if the field was not in use by others. Organized use must be approved by the SFLL.

Mr. Fazande moved approval and Ms. Halsted seconded the motion. Approved, 5-0.

9. Resolution authorizing contract with Treasure Island Homeless Development Initiative (TIHDI) for no more than $75,000 to facilitate participation of service organizations in implementing base closure homeless assistance agreement and option to lease real property (*Action item*)

Mr. Mahoney explained the how proposed funding would be used and asked that Sherry Williams expand on the proposed contract. Ms. Williams stated that TIHDI's first residents will be moving in today (December 15th) under the auspices of Walden House and that an additional 17 families will be coming under the auspices of Catholic Charities before Christmas. Ms. Williams added that 70 economically disadvantaged people are working on TI through the Job Broker program which includes Toolworks, Rubicon, the John Stewart Company, the Flea Market, the Treasure Island Marina and TIHDI's rehabilitation.

Ms. Williams expressed appreciation to TIDA staff. Staff and TIDA Directors complimented TIHDI on its work. In response to Mr. Elberling's question, Ms. Williams stated that TIHDI's total annual budget is $750,000.

Ms. Halsted moved approval and Mr. Fazande seconded the motion. Approved, 5-0.

10. Resolution approving sublease with convenience store operator (*Action item*)

Mr. Proud explained the basic provisions of the sublease and indicated that Ms. Susie Pak, the convenience store operator will sublease 10,000 square feet on 13th and H, adjacent to the housing area. The structure provided by the operator will be 7400 square feet and Mr. Pak will provide the following services: rental of videos and DVD's, sale of groceries, drop off for dry cleaning and laundry. Ms. Pak is responsible for all improvements including accessibility and to meet all codes. The sublease will run concurrent with the John Stewart Company's with the maximum term terminating 3/1/06. The particular site will be guaranteed to Ms. Pak for three years.

Mr. Proud indicated that Ms. Pak has established a 10% hiring goal from TIHDI's Job Broker program.

Mr. Dan Levine from the John Stewart Company discussed the site layout and landscaping plans for the site.

Ms. Halsted urged the operator to stock fresh meats and vegetables. Mr. Morales asked if the hours of operation were contained in the sublease and Mr. Cohen responded that a requirement could be be added in the sublease that the hours be approved by the Executive Director. Mr. Elberling stated that he preferred that the hours not be specified in the sublease but that they be approved by the Executive Director.

Ms. Pak indicated that the store will be open seven days per week..

Public Comment:

Sherry Williams stated that the store should carry basics because few of the TIHDI residents will have cars and urged the Authority to get the project underway. Bruce Franks, TIHDI, stated that he talked with the store operator who stated that the workforce hiring plan is 50%. Ruth Gravanis stated that she is eager for store, delighted that the store will provide info on transit information and expressed concern about recycling.

Mr. Elberling stated that the sublease should specify 7 days per week operation with the hours approved by the Executive Director and asked that that be included in any motion.

Mr. Morales moved approval, as amended regarding Executive Director approval of store hours. Ms. Halsted seconded. Approved, 4-0.

11. Resolution authorizing the release of funds for an amount not to exceed $200,000 to the Department of Public Works to fund an extension of the contract with Geomatrix to continue to provide technical oversight of the U.S. Navy's environmental clean-up program on TI (*Action item*)

Mr. Mahoney explained that the $200,000 is not additional to the already approved $500,000 for environmental services but is a part of the amount. He indicated that the contract extension will also be brought to the Board of Supervisors for its approval because the Board had placed a portion of the necessary funds on reserve.

Mr. Fazande requested that monthly reports be made on the progress of clean-up, monitoring and individual documents on the subject. Ms. Conroy added that Geomatrix keeps the Navy and regulators moving.

Jim Morales asked why the funds had been placed on reserve and Mr. Mahoney responded that the Board of Supervisors desired more information on the work to be performed, including a detailed scope of work.

Mr. Morales moved approval, seconded by Mr. Fazande. Approved, 4-0.

12. Adjourn

The meeting was adjourned at 3:30 p.m.